

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

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

Wednesday,
July 15, 2015

Volume VII

Hearing Room A
Room TW-A363

445 12th Street, S.W.

Washington, D.C.

The above-entitled matter came on for hearing, pursuant
to notice, at 9:36 a.m.

BEFORE: THE HONORABLE RICHARD L. SIPPEL,

Chief Administrative Law Judge

APPEARANCES:

On Behalf of the Complainant, Game Show Network, LLC:

LAURA FLAHIVE-WU, ESQ.
STEPHEN KIEHL, ESQ.
PAUL W. SCHMIDT, ESQ.
STEPHEN A. WEISWASSER, ESQ.

Of: Covington & Burling LLP
One CityCenter
850 Tenth Street, N.W.
Washington, DC 20001
Tel: (202) 662-5982 (Flahive-Wu)
(202) 662-5872 (Kiehl)
(202) 662-5272 (Schmidt)
(202) 662-5508 (Weiswasser)
Fax: (202) 662-6291
Email: lflahivewu@cov.com
skiehl@cov.com
pschmidt@cov.com
sweiswasser@cov.com

and

C. WILLIAM PHILLIPS, ESQ.
JOSHUA PICKER, ESQ.
JONATHAN M. SPERLING, ESQ.

Of: Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018
Tel: (212) 841-1081 (Phillips)
(212) 841-1124 (Picker)
(212) 841-1153 (Sperling)
Fax: (212) 841-1010
Email: cphillips@cov.com
jpicker@cov.com
jsperling@cov.com

On Behalf of the Defendant, Cablevision Systems Corporation:

JAMES BOROD, ESQ.
GARY CARNEY, ESQ.
JAY COHEN, ESQ.
KATHERINE FELL, ESQ.
ANDREW GORDON, ESQ.
GEORGE KROUP, ESQ.
EMILY A. WEISSLER, ESQ.

Of: Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019

Tel: (212) 373-3449 (Borod)
(212) 373-3051 (Carney)
(212) 373-3163 (Cohen)
(212) 373-3550 (Fell)
(212) 373-3543 (Gordon)
(212) 373-3480 (Kroup)
(212) 373-3951 (Weissler)

Fax: (212) 492-0449 (Borod)
(212) 492-0051 (Carney)
(212) 492-0163 (Cohen)
(212) 492-0550 (Fell)
(212) 492-0543 (Gordon)
(212) 492-0480 (Kroup)
(347) 823-2231 (Weissler)

Email: jborod@paulweiss.com
gcarney@paulweiss.com
jaycohen@paulweiss.com
kfell@paulweiss.com
agordon@paulweiss.com
gkroup@paulweiss.com
eweissler@paulweiss.com

and

SCOTT A. RADER, ESQ.

Of: Mintz Levin Cohn Ferris Glovsky and Popeo PC
Chrysler Center
666 Third Avenue
New York, NY 10017
Tel: (212) 935-3000
Fax: (212) 983-3115
Email: sarader@mintz.com

On Behalf of the Federal Communications Commission:

PAMELA S. KANE, ESQ.
Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Tel: (202) 418-2393
Fax: (202) 418-2080
Email: pamela.kane@fcc.gov
and

WILLIAM H. KNOWLES-KELLETT, ESQ.
Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325
Tel: (717) 338-2505
Fax: (717) 338-2698
Email: wkellett@fcc.gov

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

| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|-------------------|--------|-------|-----------|---------|
| Elizabeth Doree | | | | |
| By Mr. Gordon | 1695 | | 1847/1904 | |
| By Mr. Sperling | | 1756 | | |
| By Ms. Kane | | 1890 | | |
| Roberts Broussard | | | | |
| By Mr. Gordon | 1915 | | | |
| By Mr. Schmidt | | 1950 | | |

| EXHIBIT NO. | DESCRIPTION | MARK | RECD |
|-------------|---|------|------|
| GSN | | | |
| 352 | Email sent by Kenetta Baily, 2008 | 1758 | 1762 |
| 310 | Email to Ray Giacobelli from Christina Pisano | 1762 | |
| 354 | Advertising spreadsheet | 1765 | 1771 |
| 334 | Tracking WE sales by week | 1777 | 1779 |
| 339 | WE tv Competitive performance document | 1779 | 1780 |
| 338 | WE tv slides regarding performance | 1781 | 1782 |
| 407 | Deposition of Ms. Doree | 1791 | |
| 410 | WE tv vision and strategy document (closed) | 1799 | 1803 |
| 400 | Document re: competitive fringe ranker | 1806 | 1811 |
| 412 | WE TV Programming Times | 1845 | 1883 |

Cablevision

| | | | |
|------|---|------|------|
| 233B | Hard copy of Mr. Poret's backup data | 1693 | 1694 |
| 338 | Written direct testimony of Elizabeth Doree | 1698 | 1698 |
| 339 | Written Direct testimony of Robert Broussard | 1920 | 1920 |

Closed Sessions: 1769-1777/1799-1803/1933-1947/1969-1984 (End)

OTR: 9:36 a.m.

Lunch: 12:15 p.m. to 1:32 p.m.

OTR: 5:39 p.m.

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

2 (9:36 a.m.)

3 JUDGE SIPPEL: Let's go. Do we --

4 MR. COHEN: One minute of housekeeping before we --

5 JUDGE SIPPEL: Yes, sir.

6 MR. COHEN: Remember yesterday we had a discussion about
7 Mr. Poret's backup. And I said it was --

8 JUDGE SIPPEL: We did.

9 MR. COHEN: We did. Here it is, Your Honor. I'm going
10 to give you Exhibit 233B, which is the hard copy of his backup.
11 And for the electronic set, a disc as well. And I'm going to offer
12 it, Your Honor.

13 (Whereupon, the above-referred to document was marked as
14 Cablevision Exhibit No. 233B for identification.)

15 JUDGE SIPPEL: Is there any objection to this?

16 MR. SCHMIDT: We have no objection to it coming in. I
17 think we would object if they start pulling out stuff in the backup
18 that wasn't in his testimony. But I don't understand that to be
19 the purpose of this. There's no objection to it coming in.

20 MR. COHEN: Well I don't know what pull it out means,
21 Your Honor. I think if it's in evidence we can cite to it.

22 JUDGE SIPPEL: I was going to say, I mean, the lawyers in
23 this case are honorable men and honorable people.

24 MR. SCHMIDT: Well, no question about that. I don't
25 think after the fact they should be pulling out stuff that's not in

1 his analysis. That's my only point.

2 JUDGE SIPPEL: Well, we'll see how it's used. And we'll
3 take care of it.

4 MR. SCHMIDT: Thank you, Your Honor.

5 JUDGE SIPPEL: Okay. So this is CV 233B, Bravo, right?

6 MR. COHEN: Yes, Your Honor.

7 JUDGE SIPPEL: No objection? No objection?

8 MR. SPERLING: I'm sorry, Your Honor, we were conferring.

9 MR. SCHMIDT: No objection, Your Honor.

10 JUDGE SIPPEL: There's no objection?

11 MR. SCHMIDT: No objection.

12 JUDGE SIPPEL: It's received into evidence as CV 233B.

13 As in B for boy.

14 (Whereupon, the above-referred to document was received
15 into evidence as Cablevision Exhibit No. 233B.)

16 JUDGE SIPPEL: Okay. And we have a witness?

17 MR. COHEN: Yes, Your Honor.

18 MR. GORDON: Yes, Your Honor. We have Elizabeth Doree.

19 She's right in the back.

20 JUDGE SIPPEL: Ms. Doree.

21 MS. DOREE: Hello.

22 JUDGE SIPPEL: Good morning, Ma'am.

23 MS. DOREE: Good morning.

24 JUDGE SIPPEL: Please come forward. And if you would
25 raise your right hand please.

1 WHEREUPON,

2 ELIZABETH DOREE

3 was called as a witness by Counsel for Defendant and, having been
4 first duly sworn, assumed the witness stand, was examined and
5 testified as follows:

6 THE WITNESS: Yes, I do.

7 JUDGE SIPPEL: Thank you very much. You may be seated.
8 Get yourself comfortable.

9 THE WITNESS: Your Honor, I have a little bit of a back
10 problem, so just to make you aware if I'm moving a little
11 strangely.

12 JUDGE SIPPEL: All right, this is your Witness, Mr.
13 Gordon.

14 MR. GORDON: Thank you, Your Honor.

15 JUDGE SIPPEL: You're welcome.

16 DIRECT EXAMINATION

17 BY MR. GORDON:

18 Q Ms. Doree, you've already introduced yourself to the
19 Court, why don't you start by telling the Judge where you work.

20 A I work at WE tv, which is a division of AMC Networks.

21 Q And how long have you been at WE TV?

22 A Fourteen years.

23 Q And what is your current position?

24 A I'm currently senior vice president of programming
25 strategy and acquisitions.

1 Q And how long have you held that job?

2 A I've been in that position since 2014.

3 Q Okay. Could you explain to the Judge what your
4 responsibilities are as senior vice president of programming
5 strategy and acquisitions for WE TV?

6 A Sure. I'm primarily responsible for all scheduling
7 decisions for the network as well program acquisitions.

8 JUDGE SIPPEL: What do you mean by scheduling decisions?

9 THE WITNESS: We decide where programs go. What time
10 we're going to put them on.

11 JUDGE SIPPEL: All right.

12 BY MR. GORDON:

13 Q Before taking on that position, what was your previous
14 position?

15 A I was senior vice president of scheduling and
16 acquisitions.

17 Q Okay. And when did you start with that job?

18 A In July of 2009.

19 Q Okay. And what were your responsibilities in that
20 position?

21 A Responsibilities were the same, but I also was in charge
22 of promotional strategy. On air promotional strategy.

23 MR. GORDON: Okay. I want to hand out, Your Honor, a
24 binder full of exhibits if that's okay?

25 JUDGE SIPPEL: Why should this be any different than any

1 other time? Certainly, Mr. Gordon. Certainly.

2 Be careful how you treat those guys, they may be your
3 boss same day. They're very good at --

4 MR. GORDON: You saw the way, Your Honor, they treated
5 me, you wouldn't be telling them to be careful. I mean. I'm
6 sorry.

7 JUDGE SIPPEL: An occupational hazard. Miss, you see how
8 much they trust me. See they gave me a -- well I guess it's got
9 your picture on it.

10 THE WITNESS: Oh, that's nice.

11 JUDGE SIPPEL: So we've got to check and see that it's
12 the same person.

13 THE WITNESS: Is it a good picture? Yes, okay, it's good
14 then. Oh, I see it. Yes. Oh, that's my professional headshot.
15 Yes.

16 JUDGE SIPPEL: Well, this is a professional day.

17 THE WITNESS: It's one of my most. Yes. That's right.

18 JUDGE SIPPEL: Please go forward.

19 MR. GORDON: Ms. Doree, if you turn to the first document
20 in this binder, which is Cablevision Exhibit 338, could you just
21 tell, Your Honor, what this document is?

22 THE WITNESS: Yes. This is my direct written testimony
23 for this hearing.

24 MR. GORDON: Okay. And, Your Honor, at this time we'd
25 like to move into admission Ms. Doree's direct testimony, which is

1 Exhibit 338.

2 (Whereupon, the above-referred to document was marked as
3 Cablevision Exhibit No. 338 for identification.)

4 MR. SPERLING: No objection, Your Honor.

5 JUDGE SIPPEL: Exhibit 338, that's the whole binder,
6 right?

7 MR. GORDON: No, it's just this front --

8 JUDGE SIPPEL: Just one tab?

9 MR. GORDON: -- tab here. And the other documents behind
10 the tabs that are exhibits that are, I believe, already in
11 evidence.

12 JUDGE SIPPEL: I see. So this is exhibit, CV Exhibit
13 338?

14 MR. GORDON: Yes, Your Honor.

15 JUDGE SIPPEL: No objection, it's received into evidence.

16 (Whereupon, the above-referred to document was received
17 into evidence as Cablevision Exhibit No. 338.)

18 MR. GORDON: Thank you, Your Honor. Ms. Doree, let's
19 talk about your tenure at WE tv. And let me first ask you, based
20 on your 14 years at WE tv, how would you describe WE tv?

21 THE WITNESS: I would describe WE tv as a women's
22 network.

23 MR. GORDON: Okay. And was that true during the period
24 of time between 2009 and early 2011?

25 THE WITNESS: Yes, it was.

1 MR. GORDON: Okay. And let's take a step back, if you
2 can, and take a moment to explain to the Judge what you mean by a
3 women's network.

4 THE WITNESS: Okay. A women's network would be a network
5 focused wholly, in everything they did, on attracting women. In
6 our case women 25-54 and women 18 to 49. Which are two recognized
7 demographics in the television industry.

8 JUDGE SIPPEL: Could you give me those demographic groups
9 again?

10 THE WITNESS: Sure. Women 18 to 49.

11 JUDGE SIPPEL: Eighteen to 49.

12 THE WITNESS: And women 25 to 54.

13 JUDGE SIPPEL: Twenty-five to 54. Okay. All right.

14 THE WITNESS: And as a network for women, basically
15 everything we did was -- from our programming, our marketing, our
16 branding -- was later focused on targeting these two demos of
17 women. Successfully attracting them and earning the reputation
18 among our industry peers as well as consumers that we were in fact
19 a network for women.

20 JUDGE SIPPEL: Those you called -- you referred to them
21 as demos?

22 THE WITNESS: Yes. And that's short for demographics.

23 JUDGE SIPPEL: Demographics. Okay. Thank you.

24 BY MR. GORDON:

25 Q Ms. Doree, let me ask you in your opinion, is a network

1 that simply attracts more women viewers than men viewers a women's
2 network?

3 A No.

4 Q And why is that?

5 A By nature of television viewing habits, more women watch
6 television than men. They watch it with more loyalty as well as
7 women make up a larger percentage of Americans.

8 So by nature, most networks skew female. By skew I mean
9 a majority. What makes a women's network unique from that is that
10 it's not just about attracting women, it's about targeting those
11 women. That is our mantra. To reach these women.

12 We attract them and we earn the reputation for being a
13 women's network. We're not confused for something else.

14 Q Okay. Let's talk about some of the qualities you just
15 mentioned. And I want to start with programming.

16 Given your responsibilities, with regard to programming,
17 can you explain to the presiding Judge what type of viewers WE's
18 programming was trying to attract in this timeframe?

19 A Sure. Again, we were -- our goal was to attract women in
20 the 25-54 and the 18 to 49 demos. Our sweet spot was women in
21 their early 40s.

22 Q Okay. And if you turn to tab 1 of your binder. I'm just
23 letting the Judge finish his notes.

24 A Sure.

25 JUDGE SIPPEL: I was just thinking about that term sweet

1 spot. Because I know that like the baseball here -- you know, the
2 sweet spot on the bat is where you get the biggest pop.

3 THE WITNESS: I never knew that.

4 JUDGE SIPPEL: Well, I never knew this about women
5 targeted as being a sweet spot. Early 40s?

6 THE WITNESS: Yes. That's right.

7 JUDGE SIPPEL: Can I tell my wife that?

8 THE WITNESS: Sure.

9 JUDGE SIPPEL: Okay. Go ahead.

10 MR. GORDON: Okay. Tab 1 of your big binder here. There
11 are two exhibits behind here, Exhibit 131. Cablevision 131 and
12 Cablevision 188.

13 And could you just tell the Judge what these documents
14 are?

15 THE WITNESS: Yes. These are sample schedules. This is
16 the way we record and plan. Your Honor, you were asking what a
17 schedule -- what scheduling does. We plan out hour by hour, half
18 hour by half hour, what programs. These are all television
19 programs.

20 JUDGE SIPPEL: Right.

21 THE WITNESS: And so this is what a sample weekly
22 schedule would look like. This exhibit appears to be approximately
23 every two months from October 2009 through July of 2011.

24 MR. GORDON: Okay. And what do these programming grids
25 reflect about WE tv's programming?

1 THE WITNESS: What they show is that as a women's network
2 we -- it wasn't about a piece of our schedule. Our entire
3 schedule, from the time we went on the air until the time we went
4 off the air, was programming for women. Programming featuring
5 women or with subjects of interest, specifically with interests to
6 women.

7 I can demonstrate it with some examples. There were a
8 number of different types of programming. We had buckets for that
9 were very successful. The biggest success for us, and longest
10 running, was in the wedding space.

11 So we had ---- at one time the programming was what we
12 call docu-series. They're reality shows following real life
13 events. And if you look at -- for an example, on page 2 in this
14 somewhat garish hot pink color, is -- not my choosing, is a show
15 called --

16 JUDGE SIPPEL: Is it the light or the dark pink?

17 THE WITNESS: It's the dark pink. It's on the other --
18 it's on page 2, the other side of the binder. Yes. And the dark
19 pink, that's hard to read.

20 JUDGE SIPPEL: This --

21 THE WITNESS: Yes, right where your finger is.

22 JUDGE SIPPEL: No, I see it.

23 THE WITNESS: Okay.

24 JUDGE SIPPEL: I see it. Okay.

25 THE WITNESS: And that says Bridezillas, which was a ten

1 year series for us. And that was a docu-series about women who are
2 seemingly normal until they get engaged and then they become
3 monsters. And that was really a hit for us.

4 And we made several shows like that. There are other
5 shows throughout here. My Fair Wedding, which was about turning
6 horrible weddings into beautiful weddings with a wedding planner.

7 And that was one type of programming. That was a lot of
8 our originals.

9 JUDGE SIPPEL: All right.

10 THE WITNESS: Another type was in a block we called the
11 Reveal, which was documentaries about women.

12 JUDGE SIPPEL: Reveal?

13 THE WITNESS: Reveal. It was a documentary block. And
14 actually on that same page you'll see the green. Everything is
15 color-coded for us.

16 JUDGE SIPPEL: Is there only one shade of green? Oh,
17 yes.

18 THE WITNESS: Yes, there's only one shade of green. I
19 think.

20 JUDGE SIPPEL: There is. There's only one shade.

21 THE WITNESS: Yes, at least on that page. And that's
22 called -- that's one of our series -- was Secret Lives of Women.

23 Where we had a series called Women Behind Bars. Docu-
24 series of specials called Women on Death Row. These were heavy-
25 hitting dramas -- documentaries rather, about women's lives.

1 JUDGE SIPPEL: And that would not attract men.

2 THE WITNESS: I would think not. That was not our
3 intent. And nor was that the result we saw. Overwhelmingly
4 attracted women.

5 Another big part of our schedule, and what you can see
6 throughout these pages in this sort of orangey-beige-peach color,
7 were shows we acquired. And these are fictional, scripted shows.

8 As you can see, they made up a large percentage of our
9 schedule. And --

10 JUDGE SIPPEL: Locator, was --

11 THE WITNESS: Locator is actually an original series. If
12 it's in any shade of pink, it's in an original series.

13 The ones that are in this beigey-orange color. You'll
14 see Golden Girls, Ghost Whisperer.

15 JUDGE SIPPEL: Oh, I see what you're saying.

16 THE WITNESS: Yes. Earlier, the top is the morning.
17 You'll see Hope and Faith and Girlfriends.

18 JUDGE SIPPEL: I do see that.

19 THE WITNESS: WE at the time had, I believe, five series
20 on, all about women. And these were all shows that had aired on
21 Broadcast Network.

22 Like the Golden Girls. About four elderly, older women
23 living in Miami together. Ghost Whisperer was a series about a
24 young woman who spoke to the dead and the great beyond and reunited
25 ---- tried to get -- send messages to their loved ones.

1 A little bit later on in 2010, we licensed a series
2 called Charmed, which is about three sisters with magical powers.
3 And all these shows were about relationships among women.

4 And finally we also air what we call chick flicks, which
5 were movies with specific appeal to women. We knew they had appeal
6 to women when they aired on other networks. We knew they had
7 appeal to women at the box office when they were originally in the
8 theaters.

9 And they're peppered -- they're throughout our schedule,
10 but a good example is on page 6.

11 JUDGE SIPPEL: Yes. Page 6 of 6?

12 THE WITNESS: Six. Yes.

13 JUDGE SIPPEL: Okay.

14 THE WITNESS: And this grid is by day of the week. So if
15 you go to the far right, under Saturday, you can see a long lineup
16 of movies.

17 JUDGE SIPPEL: Yes.

18 THE WITNESS: I'm not sure if that's page 6.

19 JUDGE SIPPEL: Those are all movies?

20 THE WITNESS: Well actually, is that page 6, Your Honor?

21 JUDGE SIPPEL: I've got 6 of 8.

22 THE WITNESS: You know what, I'm looking at Exhibit 131.

23 MR. GORDON: Your Honor, I think you're on the schedule
24 before. But if you --

25 THE WITNESS: Well that's okay --

1 MR. GORDON: Yes.

2 THE WITNESS: -- I can give him --

3 MR. GORDON: Yes.

4 THE WITNESS: That's fine.

5 JUDGE SIPPEL: Wait a minute. Whoa, whoa, whoa. We've
6 got to be at -- we have to be at the same place.

7 THE WITNESS: Okay.

8 JUDGE SIPPEL: Oh, I'm sorry, I'm at a different exhibit.

9 THE WITNESS: Okay.

10 JUDGE SIPPEL: We're on 187, is that?

11 THE WITNESS: I was on 131.

12 JUDGE SIPPEL: Did we skip around that much?

13 MR. GORDON: No, no, Your Honor. Same tab, the first
14 document before the blue sheet.

15 JUDGE SIPPEL: We are on 131?

16 THE WITNESS: Yes.

17 JUDGE SIPPEL: All right, give me a page on --

18 THE WITNESS: 6 of 6.

19 JUDGE SIPPEL: 6 of 6. All right. And what are you
20 telling me about that?

21 THE WITNESS: If you look to the far right, under
22 Saturday, or S-A-T. It's abbreviated.

23 JUDGE SIPPEL: Oh, yes.

24 THE WITNESS: You see that?

25 JUDGE SIPPEL: Sunday is the -- well Sunday is the 7th

1 day of the week.

2 THE WITNESS: Yes.

3 JUDGE SIPPEL: Saturday is -- okay, go ahead.

4 THE WITNESS: So under Saturday, most of what you see in
5 those squares are movie titles. Baby Boom, When Harry Met Sally,
6 You've Got Mail. These are all theatrical movies.

7 And they're all either romantic comedies or dramas with
8 particular female appeal. And so that's the bulk of what we air in
9 our movies are movies that we knew had female appeal.

10 JUDGE SIPPEL: All right.

11 THE WITNESS: Just an example of some of them. We had
12 hundreds of movies.

13 JUDGE SIPPEL: Okay. Now hold on just a minute. Hold on
14 just a minute. Yes, on page 3 of 6, this is in a -- it's in a
15 almost a -- it's not a royal blue, but it's a blue box.

16 THE WITNESS: Yes, I see it there.

17 JUDGE SIPPEL: That is a -- what is the blue box? What
18 is the category there?

19 THE WITNESS: That actually says movie Chicago. It was
20 the film Chicago --

21 JUDGE SIPPEL: No, no. I mean, but what's the thing down
22 the -- the legend down the bottom? It says --

23 THE WITNESS: Oh. That says, I do believe, Cinema
24 Therapy.

25 JUDGE SIPPEL: Cinema Therapy?

1 THE WITNESS: Yes.

2 JUDGE SIPPEL: Therapy?

3 THE WITNESS: Yes. WE had ---- I might -- I'm trying to
4 make sure that's actually what it says.

5 JUDGE SIPPEL: Well yes.

6 THE WITNESS: Because I see that it's -- it definitely
7 says on the other page, Cinema Therapy.

8 JUDGE SIPPEL: What --

9 THE WITNESS: Oh, probably sponsored. Cinema Therapy was
10 the way we positioned our movies that ran for eight or ten years,
11 and it was -- they were wraps.

12 They were produced pieces that went before and during the
13 movie. During breaks of the movie, and it was -- it changed over
14 time, but it started out as two women talking about how movies
15 could really help address all kinds of your problems.

16 You know, you could cry it out with a good movie, a good
17 chick flick, that kind of thing, and it was generally women talking
18 about movies. These particular movies.

19 JUDGE SIPPEL: What does it say after Movie Therapy? Is
20 it Deck the Halls or --

21 MR. GORDON: I believe it's Deck the Malls.

22 JUDGE SIPPEL: Deck the Malls.

23 THE WITNESS: That is what it says. And given that this
24 was December of '09, what that would reflect is this movie was sold
25 to a sponsor -- to an advertiser.

1 And Deck the Malls would have been some sort of
2 sponsorable event that was done, probably with an advertiser. And
3 the movie would have had wraps. These kind of -- these short-form
4 videos of these women talking about the movie.

5 And it's possible, because there was an advertiser
6 attached, that they were talking about -- they were selling some
7 sort of product ---- or using some sort of product during those
8 wraps. You know, if they sit and they're -- Diet Coke is the
9 advertiser, they might sit there with -- drinking two Diet Cokes
10 while they talk kind of thing.

11 JUDGE SIPPEL: Raps, that's not a form of talking or
12 music is it?

13 THE WITNESS: Totally different kind of -- W-R-A-P.

14 JUDGE SIPPEL: Oh, a wrap that --

15 THE WITNESS: It's because they -- if you think about the
16 run of a movie, they sort of wrap the movie. Almost like wrapping
17 a present. They go on the ends. They go around them. Does that
18 --

19 JUDGE SIPPEL: I'll take it.

20 THE WITNESS: Okay.

21 JUDGE SIPPEL: Okay. Now ---- but then it says up here,
22 it says the movie Chicago and it says, brought by -- sold to
23 Weinstein. Is that what it says?

24 THE WITNESS: I think you're vision is better than mine.

25 MR. GORDON: Sold to Weinstein is what it says.

1 THE WITNESS: Does that say Weinstein?

2 JUDGE SIPPEL: Yes.

3 THE WITNESS: Okay. That's --

4 JUDGE SIPPEL: What does that mean?

5 THE WITNESS: Oh, that would mean that probably the
6 company -- the Weinstein Company, who makes films. They're a
7 theatrical company, and they had produced Chicago.

8 My best guess, because I would have to look this up, is
9 that they had another film being released theatrically at the time.
10 So it would not be uncommon for us to air a movie that was very
11 much like the movie that was being released.

12 And so throughout these wraps they would advertise to the
13 movie in the theaters. That's a pretty common practice for --
14 within television. Especially networks that air movies. Is that
15 --

16 JUDGE SIPPEL: Well you're kind of losing me there.

17 THE WITNESS: Sure. I'll try --

18 JUDGE SIPPEL: Where it says sold to Weinstein. That
19 doesn't say -- it says sold to Weinstein.

20 THE WITNESS: Yes.

21 JUDGE SIPPEL: Does that Mr. Weinstein bought it?

22 THE WITNESS: It means the Weinstein Company is
23 advertising.

24 JUDGE SIPPEL: The Weinstein -- wait. The Weinstein
25 Company advertising?

1 THE WITNESS: Yes. The Weinstein Company is a theatrical
2 film company.

3 JUDGE SIPPEL: Yes, I've heard of it.

4 THE WITNESS: Okay.

5 JUDGE SIPPEL: But I think -- I think I have it.

6 THE WITNESS: Okay.

7 JUDGE SIPPEL: But what's that got to do with Chicago?

8 THE WITNESS: The Weinstein Company was most likely
9 interested in advertising to a new theatrical that they had.
10 Chicago was not a new movie anymore, it was airing on my network.

11 JUDGE SIPPEL: Yes.

12 THE WITNESS: It had been in the theaters and now years
13 later it was airing on my network.

14 JUDGE SIPPEL: Yes.

15 THE WITNESS: So the Weinstein's bought ad time during
16 the airing of the movie, to promote to their movie that was coming
17 out in the theaters.

18 JUDGE SIPPEL: But I just don't understand ---- t says
19 sold to Weinstein but it doesn't say Weinstein bought anything. It
20 says you sold to him.

21 THE WITNESS: It means the ad time was sold.

22 JUDGE SIPPEL: The ad time was sold?

23 THE WITNESS: Yes.

24 JUDGE SIPPEL: Oh, okay. So it's not the movie, it was
25 the ad time.

1 THE WITNESS: No. Right. That's right.

2 JUDGE SIPPEL: Not the movie.

3 THE WITNESS: And we would keep track of that because we
4 had made a commitment to air that movie at that time. And so we
5 couldn't just randomly change that.

6 JUDGE SIPPEL: All right.

7 THE WITNESS: It was just --

8 JUDGE SIPPEL: You can answer it. Go ahead.

9 THE WITNESS: Okay.

10 BY MR. GORDON:

11 Q And so just so we're clear on that, by wraps, what you
12 mean, is you have two women who would introduce the movie and talk
13 about the movie throughout, right?

14 A Right.

15 Q And then the advertising time during the movie would have
16 been purchased by the Weinstein Company to promote a new movie that
17 was coming out for --

18 A Right. They would have purchased some of the time, not
19 all of it.

20 Q All right. How about game shows or reality based
21 competition shows during this 2009 to early 2011 time period? Did
22 WE tv air those type of programs?

23 A Virtually never. In looking at it, we aired less than
24 one percent of our schedule in that time was game or competition
25 shows.

1 Q Okay.

2 A We tried one called Most Popular. It was an experiment,
3 and unfortunately it was an experiment that failed pretty
4 miserable. The show was pulled out of its regular rotation and put
5 into late night hour and then pulled off the schedule entirely.

6 Q Okay. Do you recall when Most Popular aired?

7 A It aired in 2009 I believe. I think it was -- I'm going
8 to say October, but I'm not sure.

9 Q Okay. And do you have any sense of how many episodes
10 aired before it was pulled off?

11 A Yes. We aired six episodes.

12 Q Okay. And how did that, I believe you used the term
13 failed experiment, influence your scheduling decision making with
14 respect to airing game shows going forward?

15 A Well we did -- we viewed it as an experiment. And we
16 deemed it ---- that that specific at least would have been a
17 failure. So we didn't make another game show after that.

18 MR. SPERLING: You're Honor, I'm going to object. This
19 is well beyond the scope of her written direct.

20 JUDGE SIPPPEL: Well -- what's your answer to that?

21 MR. GORDON: I think it's in paragraph 32, where she
22 talks about WE tv generally avoided airing game show programming
23 during the relevant time period. And she talks about ---- that she
24 aired -- that WE tv aired only one game show, Most Popular, and
25 that failed immediately.

1 MR. SPERLING: And that's the one thing she says, Your
2 Honor, in the last testimony about how it influenced supposedly
3 their programming decisions going forward. There's no reference to
4 that whatsoever.

5 JUDGE SIPPEL: Well, I'm going to allow the question and
6 answer, but the thing that gets -- this is just as likely that it
7 was a lousy production, isn't it? I mean --

8 THE WITNESS: That's always a factor. I mean, you know,
9 the quality of a program.

10 JUDGE SIPPEL: Yes. So no matter -- any network puts on
11 a program that bombs -- no matter what the genre or not matter what
12 the target or anything like that, they're going to yank it.

13 THE WITNESS: Oh, yes. Most likely, yes. I mean you
14 need a rating.

15 JUDGE SIPPEL: So --

16 THE WITNESS: You need viewership.

17 JUDGE SIPPEL: And so could that have been the case in
18 Most Popular? Well let me ask this.

19 THE WITNESS: Yes. We definitely did not get viewership.
20 So we pulled the show because we didn't get viewership.

21 JUDGE SIPPEL: Well when you make assessments -- you make
22 judgments on programs, right?

23 THE WITNESS: Yes.

24 JUDGE SIPPEL: So when you saw Most Popular, did you
25 think it was a good program or a bad program? Or not a -- go

1 ahead. You tell me what you thought about it.

2 THE WITNESS: I thought it was interesting. I --

3 JUDGE SIPPEL: You don't sound too enthused about it.

4 THE WITNESS: I didn't see game shows as something that
5 was -- programming that was really specifically for women. So I
6 didn't know if it was going to be a fit with our other shows that
7 were really, really a strong fit.

8 JUDGE SIPPEL: Well supposed it was a really good
9 program.

10 THE WITNESS: Yes.

11 JUDGE SIPPEL: You know, the way Donald Trump says that?
12 It was really, really good, but it didn't quite meet your category.
13 Your assessment of being pitched to women enough.

14 THE WITNESS: Okay.

15 JUDGE SIPPEL: Would you saw it off? Would you saw it
16 off if it was going very well?

17 THE WITNESS: If we had aired it and it was doing well?

18 JUDGE SIPPEL: Yes.

19 THE WITNESS: No, we wouldn't throw it away.

20 JUDGE SIPPEL: Okay.

21 THE WITNESS: Unless there were other, you know,
22 circumstances.

23 JUDGE SIPPEL: Well what could the other circumstances
24 be?

25 THE WITNESS: They're ancillary. They could be related

1 to advertisers, they could be related to competition. There were
2 other reasons you might move something or pull it. But first and
3 foremost would be the rating.

4 JUDGE SIPPEL: Okay.

5 THE WITNESS: So you're right.

6 MR. GORDON: Your Honor, may I follow up your questions
7 with a question?

8 JUDGE SIPPEL: Yes. Certainly, Mr. Gordon.

9 BY MR. GORDON:

10 Q Why didn't you think that the Most Popular, as a game
11 show, would appeal to your audience?

12 A Because our programming was designed to really reach and
13 resonate with women.

14 Q Okay.

15 A So we didn't just make docu-series, we made docu-series
16 about brides and about, you know, arguably a women's biggest day.
17 Or the documentary series about the secrets that go on behind
18 women's lies or what women -- specifically stories about women.

19 So it didn't -- there were some concern that it was a
20 type of program that wouldn't necessarily resonate with women.

21 Q Okay.

22 A And we didn't know if it would.

23 Q And when you're talking about women, are you talking
24 about women in your target demographic?

25 A Yes. Specifically women 25 to 54 and 18 to 49.

1 Q Okay.

2 A Yes.

3 JUDGE SIPPEL: But wait, I want to pitch to that a little
4 bit. How long did it take you to come to that conclusion? What
5 you just told Mr. Gordon.

6 THE WITNESS: I'm sorry to interrupt, which conclusion?
7 That --

8 JUDGE SIPPEL: This -- it wasn't working.

9 THE WITNESS: Oh. The first -- after ---- the day after
10 the first airing, we got ratings.

11 JUDGE SIPPEL: The day after the first airing you got
12 ratings?

13 THE WITNESS: Yes. And the ratings were very low, far
14 below expectations.

15 JUDGE SIPPEL: You're talking about Nielsen ratings?

16 THE WITNESS: Yes.

17 JUDGE SIPPEL: And then did you make the decision alone
18 or was there other participants in a decision like that?

19 THE WITNESS: It's a group network decision.

20 JUDGE SIPPEL: So who was in the group?

21 THE WITNESS: At that time I couldn't tell you
22 definitively. It would have been certainly Steve Cheskin, who was
23 at the time the head of programming, who's my boss.

24 JUDGE SIPPEL: How do you spell that?

25 THE WITNESS: Steven, S-T-E --

1 JUDGE SIPPEL: I know how to do that -- Steven. Try the
2 last word.

3 THE WITNESS: Cheskin, C-H-E-S-K-I-N.

4 JUDGE SIPPEL: Thank you.

5 THE WITNESS: Sure.

6 JUDGE SIPPEL: And he was your boss?

7 THE WITNESS: That's right, at that time.

8 JUDGE SIPPEL: What was the year this was done?

9 THE WITNESS: Well actually let me think about this for
10 a minute because I replaced Steve Cheskin in July of 2009. So we
11 would have been developing and producing while he was there, but I
12 think when we actually aired, he had left the company. So he would
13 not have been in the meeting to make the decision to pull it.

14 JUDGE SIPPEL: Yes.

15 THE WITNESS: He was in the meeting to decide to make the
16 show. It certainly would have been Kim Martin for sure. She was
17 the general manager and president.

18 JUDGE SIPPEL: Okay, I know that name.

19 THE WITNESS: Okay. It would have been certainly me and
20 my vice president of scheduling.

21 JUDGE SIPPEL: Who's that?

22 THE WITNESS: Gary Pipa, P-I-P-A.

23 JUDGE SIPPEL: These are all people whose views you feel
24 are important?

25 THE WITNESS: Yes.

1 JUDGE SIPPEL: Anybody else?

2 THE WITNESS: I can't -- I don't recall -- I don't know
3 for certain exactly who would have been in there, but most often
4 these were senior staff group conversations which would involve the
5 marketing people, the heads of marketing. We would have to inform
6 everyone, the website people, press people.

7 JUDGE SIPPEL: How long did it take to make the decision?

8 THE WITNESS: That I don't recall. We would have looked
9 at the ratings the next day.

10 JUDGE SIPPEL: Right.

11 THE WITNESS: They were disappointing. So -- but we
12 probably would have -- I think we left it on another week to see if
13 we could gain any traction with viewership. So my best guess is
14 probably after two to three weeks.

15 JUDGE SIPPEL: Okay. Then Steve Cheskin, was he -- well
16 let me ask it this way. Who approved ---- or who made the decision
17 to put Most Popular on?

18 THE WITNESS: It goes through a process. So Steve
19 Cheskin was the person who recommended that we produce it.

20 JUDGE SIPPEL: How did he happen to recommend it, do you
21 know? I mean, what was the circumstances? Did somebody just drop
22 it on a desk and say take a look at this, Steve, and we can --

23 THE WITNESS: No, these are all done as development
24 pitches. They're not completed programs, they're ideas for
25 programs. And so WE tv will look at several thousand pitches a

1 year. And so I will assume that --

2 JUDGE SIPPEL: Is that one of the thousand?

3 THE WITNESS: It would have been one of the thousands of
4 pitches we would have received.

5 JUDGE SIPPEL: So it was not original?

6 THE WITNESS: It was an original.

7 JUDGE SIPPEL: It was your original?

8 THE WITNESS: Yes.

9 JUDGE SIPPEL: So you were -- I'm sorry. Cablevision --
10 this would be a self-produced -- it came from Cablevision. The
11 talent and everything of Cablevision produced this I guess?

12 THE WITNESS: No, actually it would be -- the company
13 doesn't do their own production. We hire outside third party
14 production companies, but it's commissioned by WE tv and paid for
15 by WE tv.

16 JUDGE SIPPEL: Okay. So where did the idea originate?

17 THE WITNESS: I don't know definitively, but the way it
18 usually works is that a producer will have an idea and come pitch
19 it to the network and try to convince the network to buy the idea
20 and pay for the production of it.

21 JUDGE SIPPEL: So this was one of these thousands of
22 pitches you get from the outside?

23 THE WITNESS: That's what I believe. I don't know
24 definitively on Most Popular. I would have to look, but that's
25 what I --

1 JUDGE SIPPEL: Who was the producer?

2 THE WITNESS: I don't know. I don't remember. I would
3 have to --

4 JUDGE SIPPEL: They come and go?

5 THE WITNESS: No, but my guess is there are hundreds of
6 them. So I don't know specifically who produced that.

7 JUDGE SIPPEL: So they're asking you to put your money
8 behind this and run this thing. How much would that cost? Now if
9 the producer that produced the program gives you -- what do they
10 call them, a sizzler or whatever the heck it's called?

11 THE WITNESS: Yes, right. A sizzle reel or a demo reel.

12 JUDGE SIPPEL: And then you take a look at it and say --

13 THE WITNESS: Sometimes it's just a piece of paper.

14 JUDGE SIPPEL: Sometimes just a -- but that would not be
15 a sizzle, that would not be a sizzle.

16 THE WITNESS: Right.

17 JUDGE SIPPEL: That would be a paper.

18 THE WITNESS: Right.

19 JUDGE SIPPEL: So you get this information however and
20 then you decide to put money behind it. How much money did you
21 have to put behind Most Popular in order to get it out -- in order
22 to get it watched?

23 THE WITNESS: I don't know what the production cost was.

24 JUDGE SIPPEL: Well, can you give me an estimate?

25 THE WITNESS: I didn't oversee that ---- the production

1 department.

2 JUDGE SIPPEL: You don't worry about the money?

3 THE WITNESS: Not the production. Only for acquisitions,
4 for the shows we buy, not the shows we produce, we commission.

5 JUDGE SIPPEL: You just say we do it and who do you have
6 --

7 (Simultaneous speaking)

8 THE WITNESS: No, I don't make those decisions. That was
9 made by our development department and our production department.

10 JUDGE SIPPEL: You don't decide whether something should
11 be produced or not?

12 THE WITNESS: No, not directly. I work with a team.

13 JUDGE SIPPEL: Not directly?

14 THE WITNESS: I decide what shows -- where they should be
15 scheduled and I decide what shows we should buy, license, that are
16 owned by other studios like the Golden Girls or Ghost Whisperer.

17 JUDGE SIPPEL: Yes. But this type of a outside produced
18 program that comes to your attention by virtue of they sent it in
19 the mail and whatnot, that's out of your category? You don't deal
20 with that?

21 THE WITNESS: I don't receive those, correct. I don't
22 receive those development pitches myself. There's a whole
23 development team that does that. And then I work with them
24 determining whether ---- I give my input as to whether I like the
25 show, don't like the show, where I think it would be best

1 scheduled. How I think ---- if I think it would fit with the
2 schedule. That's my role.

3 JUDGE SIPPEL: But the decision is already made by the
4 development team before you worry about scheduling it.

5 THE WITNESS: No, not usually. Usually if they were
6 recommending it and they like it, because thousands of them will be
7 discarded, you know. So that the ones that rise to the top --

8 JUDGE SIPPEL: Yes.

9 THE WITNESS: We will then, as a group, the development
10 people and the production people and the scheduling people all get
11 together. We all work for the -- at the time for Steve Cheskin.

12 We would all get together and talk about the values of
13 the program, if we thought it would fit, what our expectations
14 were, what we thought any challenges might be and that kind of
15 thing. And together then ---- but it was Steve's ultimate decision
16 to then take it to Kim Martin for approval if he wanted to go
17 forth.

18 JUDGE SIPPEL: Kim Martin gave the final approval?

19 THE WITNESS: Yes. In some cases it actually went to our
20 COO, Ed Carroll. And I don't know if Most Popular had to go to
21 him. It probably did.

22 JUDGE SIPPEL: His name is Ed Carroll?

23 THE WITNESS: Ed Carroll. Two R's and two L's in
24 Carroll.

25 JUDGE SIPPEL: Thank you.

1 THE WITNESS: You're welcome.

2 JUDGE SIPPEL: Final approval. Now development, who's in
3 charge of development?

4 THE WITNESS: Today it's different than during the period
5 of time we're talking about. So during the period of time it was
6 Steve Cheskin, and he had a team of people.

7 JUDGE SIPPEL: Who's doing it now?

8 THE WITNESS: Lauren Gellert, G-E-L-L-E-R-T.

9 JUDGE SIPPEL: L-A-U-R-E-N?

10 THE WITNESS: Right.

11 JUDGE SIPPEL: G --

12 THE WITNESS: E-L-L-E-R-T.

13 JUDGE SIPPEL: Okay. So she replaced Steve.

14 THE WITNESS: She actually replaced John Miller, who
15 replaced Steve. It's been a long time.

16 JUDGE SIPPEL: No, that's okay. That's all right. Now
17 is this development -- is this a development in Cablevision or is
18 this development only in WE tv?

19 THE WITNESS: It's WE tv. WE tv is a subset of AMC
20 Networks which is a subset of Cablevision ---- was a subset of
21 Cablevision.

22 JUDGE SIPPEL: Right, right.

23 THE WITNESS: Yes, just the WE tv.

24 JUDGE SIPPEL: So you're acting as a, you're a separate
25 profit center. You produce your own profits and losses?

1 THE WITNESS: Yes.

2 JUDGE SIPPEL: And at the end of the year you either did
3 a good job or you didn't do a good job.

4 THE WITNESS: Pretty much, yes.

5 JUDGE SIPPEL: Okay. Hold on just a second now. I'm
6 saying I think that you were all involved -- I'm going to take your
7 answer at face value and say that all these people were involved in
8 making the ultimate decision.

9 Now these are your development people, your scheduling
10 people, yourself, and some other group that you mentioned all
11 decide -- got together at a meeting and decided that they were
12 going to put Most Popular on. Am I correct?

13 THE WITNESS: Yes. I don't know that it was a unanimous
14 decision. I think -- I know from the scheduling standpoint we had
15 challenges. We cited some challenges, but it was discussed as a
16 group and ultimately you make one decision. You're either going to
17 do it or you're not.

18 JUDGE SIPPEL: Right.

19 THE WITNESS: And the decision was to do it. And that
20 was recommended by Steve and approved by Kim.

21 JUDGE SIPPEL: Was there any friction involved with ----
22 that you can recall? I mean, this is a very unusual program,
23 right, for WE tv? Or was it?

24 THE WITNESS: Yes, it was --

25 JUDGE SIPPEL: I mean, I don't know.

1 THE WITNESS: Yes, it was a very unusual program for WE
2 tv, but it is not uncommon for television networks to experiment
3 because you don't know what's going to stick and what's going to
4 work.

5 So we took some -- you know, we've done other types of
6 experiments. We just did one last year on our first scripted,
7 original scripted series. Failed miserably. We're trying again.
8 It's not good, it's really bad. And it's probably going to fail
9 miserably. It's very hard to make good television.

10 JUDGE SIPPEL: Well, that's because you've got fickle
11 viewers maybe. I don't know.

12 THE WITNESS: We have a lot of them, yes. A lot of
13 reasons.

14 JUDGE SIPPEL: Well, but if something comes in and
15 catches somebody's eye, and the decision is made to experiment,
16 then it's done as an experiment, but if it clicks, if it clicks,
17 you just got a future --

18 THE WITNESS: Right.

19 JUDGE SIPPEL: -- program.

20 THE WITNESS: For the future, that's right.

21 JUDGE SIPPEL: Now what exactly did Most -- what kind of
22 a game show was it?

23 THE WITNESS: It was -- we had a host and women -- female
24 contestants. And honestly, I can't remember the details of what
25 they were vying for. I saw it six years ago, but I can't remember

1 all the details of the program.

2 JUDGE SIPPEL: Okay, but --

3 (Simultaneous speaking)

4 THE WITNESS: -- time, I would have remembered it much
5 better.

6 JUDGE SIPPEL: But it had to do with having contestants?

7 THE WITNESS: Yes.

8 JUDGE SIPPEL: They do whatever they do --

9 THE WITNESS: It was about --

10 JUDGE SIPPEL: -- to win a prize, is that correct?

11 THE WITNESS: I think they won a prize ---- they must
12 have won a prize. But it was about women and knowing their friends
13 well, that kind of thing. It was about trying to get at the
14 relationships among women. Beyond that my memory is, I apologize,
15 a little fuzzy on this.

16 JUDGE SIPPEL: Have you experimented with any other shows
17 like that?

18 THE WITNESS: Well as I mentioned, scripted was a very
19 big, expensive experiment.

20 JUDGE SIPPEL: Well, what was that show like? Scripted
21 was the name of the show?

22 THE WITNESS: No, no, no. It was scripted.

23 JUDGE SIPPEL: It was scripted. Everything was a script?

24 THE WITNESS: Everything up until that point that we did
25 an original production --

1 JUDGE SIPPEL: Yes.

2 THE WITNESS: -- was non-scripted.

3 JUDGE SIPPEL: Okay, I understand what scripted is.

4 THE WITNESS: Yes, so it was the first time. It was
5 called The Divide.

6 JUDGE SIPPEL: But what was the nature of the
7 programming?

8 THE WITNESS: It was a --

9 JUDGE SIPPEL: Was it a game show?

10 THE WITNESS: No, it was a scripted, fictional series.
11 It was a series about the death penalty. It was a legal series.

12 JUDGE SIPPEL: All right. Again, I'm going to go back to
13 my other question. Was there any other game show type programs
14 like Most Popular that were -- that you experimented with?

15 THE WITNESS: We did not after -- before or after Most
16 Popular make another game show.

17 JUDGE SIPPEL: That was the only one?

18 THE WITNESS: Yes.

19 JUDGE SIPPEL: All right. Mr. Gordon?

20 MR. GORDON: Your Honor, I'm going to shift gears from
21 programming to the target demographic. So I don't know if you have
22 any other questions on programming.

23 JUDGE SIPPEL: No, but if I think of some, I'll ask them.

24 MR. GORDON: Okay, great. Let's talk about how we did in
25 terms of actually attracting women viewers in these targeted

1 demographics of women 18 to 49 and women 25 to 54. And so let me
2 just ask you, how did you do?

3 THE WITNESS: We did extremely well.

4 BY MR. GORDON:

5 Q And how do you measure that?

6 A Well first off, everything we saw and we heard told us
7 that we were a network for women. And we measured those
8 quantitatively and qualitatively. And by quantitatively I mean
9 primarily ratings were a primary source on that.

10 And we looked at first off very important that our demos
11 of 18 to 49 and 25 to 54 for women were our biggest demos. That's
12 what we were laser-focused on. So it was important to know that
13 that's where we were attracting the biggest audience.

14 Median age was important to us. And as I had said with
15 the sweet spot, we were right at the . And certainly
16 female skew. At the time -- in this time period I believe we were
17 about -- we were percent female, which I think is about as good
18 as it gets in the industry. And so quantitatively we were looking
19 at all these kind of measurements.

20 Qualitatively, and I would say equally as important, is
21 that everything we heard from industry peers and consumers told us
22 that we were a women's network. And we did that by talking to the
23 studios who sold us product, the producers who pitched to us, the
24 way we were written about in the press. We asked our consumers in
25 focus groups. We got viewer mail from our consumers.

1 And pretty much everything we were told back was that we
2 were -- we would be described as a women's network. We considered
3 all those success factors.

4 Q You mentioned in your previous answer that having women
5 in the 18 to 49 and 25 to 54 demographics as your largest part of
6 your audience was important. Why was that?

7 A Because that was ---- to be as effective and efficient
8 and sell our network and present our network appropriately, we
9 needed to be attracting the same group we were targeting.

10 And we would have attracted many different demographics.
11 I'm sure there were some children who watched our network, probably
12 with their mothers. I'm sure there were some men -- I know there
13 were some men who watched our network.

14 But that's not what we were primarily selling ourselves
15 on. And that's not the way we're positioning ourselves as the
16 industry. So we needed that demo that we were targeting to be the
17 same demo we were attracting.

18 Q Okay. Let's talk about another quality you mentioned,
19 branding. Are you familiar with WE tv's branding?

20 A Yes, very.

21 Q How so?

22 A I'm not in charge of branding. That's under the
23 marketing department. But it would be impossible to do my job
24 effectively if marketing and branding -- if programming and
25 branding weren't intricately intertwined. It's our job to make

1 sure the programming is bringing the brand to life.

2 JUDGE SIPPEL: Who's in charge of branding?

3 THE WITNESS: Currently -- we had several people in
4 charge as well. Currently it's Rosie Pisani, R-O-S-I-E --

5 JUDGE SIPPEL: Yes, I know how to -- I've seen her name
6 before.

7 THE WITNESS: Oh, okay.

8 JUDGE SIPPEL: And I read a lot of these documents, you
9 know?

10 THE WITNESS: Good. That's excellent.

11 JUDGE SIPPEL: Well I don't know about that, but I do
12 read them. And wait a minute ---- wait just a second.

13 THE WITNESS: Sure.

14 JUDGE SIPPEL: Rosie Pisani, now. What about back in the
15 October 2010 to February 2011 period?

16 THE WITNESS: Yes, that was Kenetta Bailey.

17 JUDGE SIPPEL: How do you spell Kenetta, with a K?

18 THE WITNESS: K-E-N-E-T-T-A.

19 JUDGE SIPPEL: I knew that.

20 THE WITNESS: Okay.

21 JUDGE SIPPEL: And the next one is Bailey?

22 THE WITNESS: Yes.

23 JUDGE SIPPEL: Like the drink?

24 THE WITNESS: Yes.

25 JUDGE SIPPEL: Not that I know about that.

1 THE WITNESS: There's no apostrophe S at the end. But
2 other than that, yes.

3 JUDGE SIPPEL: I wasn't writing it that way. Okay. And
4 that's -- okay, we know that's during that time period.

5 THE WITNESS: Right.

6 JUDGE SIPPEL: Go ahead, I'm sorry.

7 MR. GORDON: No problem, Your Honor.

8 JUDGE SIPPEL: Oh, one more question.

9 MR. GORDON: Yes, sure.

10 JUDGE SIPPEL: Is branding -- is that branding only with
11 respect to WE tv, or is that branding with respect to all the
12 programming of Cablevision?

13 THE WITNESS: Just WE tv.

14 JUDGE SIPPEL: Okay. So she's a very specialized person,
15 this Kenetta Bailey, and Rosie Pisani --

16 THE WITNESS: Right.

17 JUDGE SIPPEL: -- for just doing WE tv branding?

18 THE WITNESS: That's correct.

19 JUDGE SIPPEL: Okay.

20 MR. GORDON: Why don't you tell the Judge about WE tv's
21 branding, what it is and how it specifically targeted women in this
22 2009, 2011 timeframe.

23 THE WITNESS: Sure. Much like our programming where
24 everything we did was focused on reaching these women 18 to 49, 25
25 to 54, our marketing and our branding -- that was the goal of our

1 marketing and our branding as well.

2 And the way that would get accomplished, one of the ways
3 -- in branding, you know, it's -- the best definition I've ever
4 heard of brand is that it is promise of an experience.

5 And so unlike a program that you can see, branding is
6 something that you feel, and it's an experience if it's done well.
7 And so there were certain elements that as a women's network we
8 would use.

9 We would use certain words, we used the language that we
10 speak female, that was our coining of it. Words, certain images --

11 JUDGE SIPPEL: Well --

12 THE WITNESS: I'm sorry.

13 JUDGE SIPPEL: No, I don't want to get into that. Go
14 ahead. No, answer the question, I'm sorry.

15 THE WITNESS: You know, words, music, images, graphics.
16 All things we thought would resonate with women. And then we would
17 embody, those would get embodied by the various vehicles that any
18 network would have at their disposal to tell the world about it.
19 So that would be print ads, audio promotion. You would see it
20 embodied in our tag lines, which is, well, a short descriptor with
21 our network, our logos, our brand books, which are books designed
22 to really bring to life the brand and fully embody it.

23 Sizzle reels, as you mentioned, where sizzle reels
24 produced by us where we take it out to advertisers or affiliates.
25 And in those sizzle reels would be compilations of our programs but

1 all wrapped in the brand look and sound and feel. We did it on our
2 website. We did it with the way we talked about it in our press
3 releases. We had big press events. A great example is to
4 celebrate our wedding program, and we had an enormous cake in Times
5 Square, and women, brides jumped into it to find rings.

6 JUDGE SIPPPEL: Well, when does it become branding in the
7 scheme of things? I mean you gave me all these things: print ads,
8 promos, tag lines. But when does it actually say that is a
9 branding?

10 THE WITNESS: Those are all vehicles that actually bring
11 a brand to life, because as you're developing a brand, you are
12 thinking about exactly how you want it to be expressed. And then
13 using, whether it's a poster or an event, that is the expression of
14 the brand. Does that make sense? It's an evolution.

15 MR. GORDON: Maybe an example will help. If you turn to
16 Tab 2 here of our binder.

17 JUDGE SIPPPEL: Oh, Tab 2?

18 MR. GORDON: Yes, Your Honor, behind the email.

19 JUDGE SIPPPEL: Oh, brand book.

20 MR. GORDON: Yes. Why don't you, maybe it'll assist Your
21 Honor if Ms. Doree shows you what she's talking about using the WE
22 tv brand book.

23 JUDGE SIPPPEL: That would be very nice.

24 THE WITNESS: Okay. This is an example of the brand book
25 that we were developing in 2010, and this is a release of it in

1 July of '11. But if you see the first page, you can see a big WE
2 tv there in this reddish color?

3 JUDGE SIPPPEL: I do see that. Is that around July 2011
4 that this was involved?

5 MS. DOREE: This appears to be the final release in July
6 of '11. It would have been developed for a good year, year and a
7 half. That's how long it would take to do a branding.

8 JUDGE SIPPPEL: You've answered the question.

9 THE WITNESS: Okay. So, but to bring to life what I was
10 trying to describe, was you can see pastel colors. You can see
11 that the logo is somewhat rounded. There were very specific
12 characters, fonts, typesets and colors chosen. And if you turn the
13 page in the book, even if you just flip through it, you will see it
14 is full of images of women and talking about women's perspective.
15 You see women hugging. You see families.

16 And so a brand book is meant to do a lot of things. It's
17 meant to again evoke a feeling. You know, we say things like we
18 know family is at the center of women's lives, so we take a modern
19 view of family life. On Page 10, it's three women. It appears to
20 be three generations of women.

21 JUDGE SIPPPEL: Page 13. Oh, I see, Page 10. Yes.
22 They're all in white?

23 THE WITNESS: Yes. And the next page below it, it says
24 we look at real life from the perspective of real women.

25 JUDGE SIPPPEL: All right, I think I get the idea.

1 THE WITNESS: Okay, so that's it.

2 MR. GORDON: And one more thing in the brand book. If
3 you turn to Page 21, you talk about how we see the competition?

4 THE WITNESS: Right.

5 BY MR. GORDON:

6 Q And you list

7

8 A Right.

9 Q And at the time, that was your competition, if you will.

10 A Yes, these were most of the networks in our competitive
11 set, and it was important for us to not just talk about our own
12 brand but to really understand how we had distinction among these
13 other networks. So we did deep dives into looking at their
14 programming, what their biggest hits were, where their core
15 audience was, how they were positioning themselves, et cetera. So
16 it was necessary to not only know ourselves but know our
17 competition.

18 Q And by, quote, audience, you're talking about whether or
19 not they were in your targeted demographics?

20 A Yes. Again, the women 18 to 49, 25-54.

21 JUDGE SIPPPEL: Now, these are the -- so you worry about
22 the programs that you've identified, and you've kind of mentioned
23 here, as being, doing, I mean, let me ask the question this way.
24 It would appear that they're doing -- can you give me some of those
25 names again? I just want to be sure I'm speaking correctly.

1 THE WITNESS: The networks?

2 JUDGE SIPPEL: Yes, which ones? Where are these things
3 in here?

4 THE WITNESS: On the very top of that doc. Not on that
5 page. I'm sorry, Your Honor, on Page 21. But if you go --

6 JUDGE SIPPEL: I've got Page 21.

7 THE WITNESS: Yes, go to the top of Page 21,

8 JUDGE SIPPEL:

9 THE WITNESS: Yes. And then if you turn the page there's
10 more.

11 JUDGE SIPPEL: All right. , you look
12 at their programming, and you say they're doing pretty much what
13 we're doing, right? Isn't that what you're --

14 THE WITNESS: They're area programs either similar to
15 what we're doing or often programs we'd like to, we may want to
16 emulate, pieces of programming. We see different things on
17 different networks.

18 JUDGE SIPPEL: Well, I think that's pretty much what I
19 asked. And you say, okay, and they're going after the same demos
20 -- using the lingo now.

21 THE WITNESS: Yes.

22 JUDGE SIPPEL: But might there be other type programming
23 out there that are also going after those demos, or by virtue of
24 their programming although they're not in your category, are you a
25 genre or something like that? Am I saying the word right?

1 is, right? is, is.

2 THE WITNESS: Is, meaning?

3 JUDGE SIPPEL: Is your type of program. For you, I mean
4 WE tv --

5 THE WITNESS: Some of the programming is and some isn't,
6 yes.

7 JUDGE SIPPEL: By and large, just by and large.

8 THE WITNESS: Okay.

9 JUDGE SIPPEL: We can always make this little
10 distinction. By and large though, they're doing what you're doing.

11 THE WITNESS: Yes, I guess so. Yes.

12 JUDGE SIPPEL: Whereas other programming might not be
13 doing what you're doing, but they still might be looking for the
14 same demos.

15 THE WITNESS: Yes. Yes. I don't --

16 JUDGE SIPPEL: That's okay.

17 THE WITNESS: Yes.

18 MR. GORDON: And just to follow up on the Judge's
19 question, and we'll come back to the competitive set in a little
20 bit.

21 THE WITNESS: Okay.

22 BY MR. GORDON:

23 Q But the Judge asked whether or not there were other
24 networks that were going after these demographics. Do you concern
25 yourself with every network that is targeting your core

1 demographics?

2 A No. No.

3 Q And what are you looking for when you're trying to figure
4 out who your competitors are that you want to monitor and follow?

5 A Well, one factor is what we call the audience profile.
6 So that is, in addition to specifically those demos, we're also
7 going to be looking at what their median age is in those demos,
8 their female skew. And we'll look at things like their county,
9 what county they're in, in terms of education level, income level.
10 There's a lot of layers of research of different factors that we
11 look at.

12 JUDGE SIPPEL: So you've got to look at Westchester
13 County and that kind of stuff?

14 THE WITNESS: A little more than Westchester, but they
15 are literally called A, B, C and D counties.

16 JUDGE SIPPEL: Fairfield County then? You've got all
17 this good stuff.

18 THE WITNESS: Yes, they take all the counties as I
19 understand them and put them into four different categories.

20 JUDGE SIPPEL: What would the categories be?

21 THE WITNESS: They're A, B, C and D, literally. I know,
22 it's high tech.

23 JUDGE SIPPEL: What does that mean, A, B, C and D? Where
24 would Westchester County be?

25 THE WITNESS: A, probably. This is not my area of

1 expertise. I work with this, but a researcher could tell you more
2 specifically.

3 JUDGE SIPPEL: And where would Nassau County be?

4 MR. GORDON: Oh, I hope A, Your Honor, but I'm not giving
5 away where I live.

6 THE WITNESS: I mean, there are what they call top
7 markets in the country so those will be often the top counties, so
8 surrounding those markets. New York is one of the top ones, if not
9 the top one. Los Angeles, major cities. But generally A County is
10 the wealthiest and the most urban and D County --

11 JUDGE SIPPEL: An A County.

12 THE WITNESS: Generally, yes. So it's not just four
13 quadrants of the country. It's different pockets of the country.

14 JUDGE SIPPEL: So Queens might not make that?

15 THE WITNESS: Yes, I don't know. We're going outside my
16 area of expertise, but it might not. Lower part Queens maybe, I
17 don't know.

18 JUDGE SIPPEL: You sound like you know the territory.

19 THE WITNESS: I know a little about Queens. That's about
20 it. That's my expertise.

21 JUDGE SIPPEL: Let's go.

22 THE WITNESS: Okay, I'm sorry.

23 JUDGE SIPPEL: No, that's all right. I'm asking the
24 questions.

25 THE WITNESS: Okay, I was being asked a question --

1 JUDGE SIPPEL: Mr. Gordon?

2 MR. GORDON: Okay, we were talking about branding and I
3 want to --

4 JUDGE SIPPEL: Oh, that's the question I had. I'm sorry.
5 These,

6 THE WITNESS: Yes.

7 JUDGE SIPPEL: They're not doing the same kind of
8 branding you're doing. Not exactly the same, but they're branding
9 is same kind of, generically, is the same type of branding that you
10 have.

11 THE WITNESS: From our perspective, I wouldn't agree with
12 that.

13 JUDGE SIPPEL: Really?

14 THE WITNESS: Yes.

15 They go after outrageousness. It was
16 a big part, as a matter of fact. Oh, it actually says outrageous
17 characters, trashy characters, over the top. It was very important
18 for us to distinguish for advertisers and affiliates and our
19 consumers that that was not the type of programming that we were.
20 So that might, within the umbrella of attracting women --

21 JUDGE SIPPEL: Yes.

22 THE WITNESS: -- yes, we're similar. But it was very
23 important for us to be distinctive in the type of programming we
24 did. You might say we both do docuseries, but they did docuseries
25 about women who ran after each other screaming obscenities and

1 throwing bottles, and we didn't. So it was in that respect, we do
2 not consider our brands to be similar. Is that --

3 JUDGE SIPPEL: All right. Yes, okay. That's helping so
4 far. Let's go to Mr. Gordon.

5 BY MR. GORDON:

6 Q Okay, if you turn the page, 20 to 21.

7 A Yes.

8 Q There's

9 A 21 to 22?

10 Q 21. So we were looking at on 20, on
11 Page 21.

12 JUDGE SIPPEL: Yes.

13 THE WITNESS: Oh, they're numbered differently. I'm
14 sorry.

15 BY MR. GORDON:

16 Q Oh, I'm sorry.

17 A The exhibits are different, but yes, I'm with you.

18 Q Page 22 of 26.

19 A With you.

20 Q These 1, 2, 3, 4, 5 round out the competitive set?

21 A Yes. There were, these were the core. There were, on
22 occasion, would be in here and

23 . Yes, and other than that that
24 would be our competitive set.

25 Q Okay. And in this group here, they all appealed, in your

1 mind, to the same age demographics that you were appealing and
2 trying to attract, right?

3 A Correct.

4 Q And how about their programming?

5 A Yes, and that's what, where some of them had programs
6 that we wanted to emulate. There were huge, huge, for our
7 industry, huge hit shows, things like
8 which were among the highest
9 rated cable shows on television, period. They're also incredibly
10 strong in these women demos.

11 And so that was a good example of something we wanted to
12 emulate. And we were already making docuseries like
13 , but we weren't making them nearly the success yet that
14 was. And had been very successful in the scripted
15 space. We were trying to very hard to be successful in scripted,
16 so we looked to . The way I described it to people is if
17 we could build the perfect network, we would have taken a little
18 bit out of all these networks and built a huge success on every
19 level.

20 Q But to follow up on one thing the Judge asked, you don't
21 consider every network that skews women to be a competitor, right?

22 A No.

23 JUDGE SIPPEL: I didn't ask that question.

24 MR. GORDON: Oh, I'm sorry. I thought you did.

25 JUDGE SIPPEL: No, you go ahead and ask it.

1 MR. GORDON: I'll ask a fresh question.

2 THE WITNESS: Okay.

3 BY MR. GORDON:

4 Q Did you consider every network that skewed more female
5 than male to be in your competitive set?

6 A No. It would, I'm going to guess that there's about 200
7 cable networks right now, and by definition of who watches
8 television, I would not at all be surprised if the majority of
9 those were mostly watched by women. We would not monitor 150 or
10 200 networks.

11 Q So these were the core ones that WE --

12 A Yes, and considered our biggest threats that we had to
13 watch, our biggest competitive threats.

14 Q Let me move on to advertising. Did you have an
15 understanding as to how WE tv positioned itself with advertisers in
16 the 2009 through 2011 time frame?

17 A Yes, my understanding was that we primarily sold on these
18 two female demos of 18 to 49, 25-54.

19 Q Are you familiar with the upfront season?

20 A Yes.

21 Q And what is the upfront season?

22 A The upfront season is in the spring, usually in May.
23 It's when broadcasters and cable networks will go out and pitch to
24 advertisers what their upcoming programming is, their brand. They
25 tout their successes. They try and show why they're the best place

1 that you'd want to put your advertising money.

2 Q And what kind of materials are used with advertisers
3 during upfront?

4 A These are a couple of things. There's usually a sizzle
5 reel that might be 10, 15 minutes in duration, and in that, it's
6 usually a very glossy, slick compilation reel that will have clips
7 from our programming, sometimes quotes from our talent, often our
8 rating successes, quotes from the press saying how great we are,
9 and all of that will be embodied in the brand. So if you could
10 picture a video of the brand book.

11 JUDGE SIPPEL: Go ahead. Embodied in the brand?

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: You mean like the branding brand that you
14 said before?

15 THE WITNESS: Yes.

16 JUDGE SIPPEL: That brand?

17 THE WITNESS: Yes.

18 JUDGE SIPPEL: So the sizzle would be aimed to showing,
19 making the point that the branding's making.

20 THE WITNESS: The sizzle is trying to, in a neat package,
21 best demonstrate our shows and all of the great things that we
22 think we've done, and it's all done in this packaging of the brand.
23 So like the book, the colors, you would have sounds and music and
24 video, but like these kind of pictures, using very female language.
25 So it would be equivalent to the way we saw it on paper, but you

1 would see it. That's what I mean by bringing it to life. Is that
2 explaining it?

3 JUDGE SIPPEL: About how long is a sizzle reel? What's
4 your experience with sizzle reels? How long do they run, one
5 sizzle reel?

6 THE WITNESS: Maybe ten minutes, ten to fifteen minutes.
7 They can be shorter.

8 JUDGE SIPPEL: They could be longer?

9 THE WITNESS: I suppose, but I do believe there's a law
10 of diminishing returns that at some point your audience says, okay,
11 I get it. You know, you're there to really pack a punch. Does
12 that make sense? Am I using too many --

13 JUDGE SIPPEL: No, no, you're just telling me the way you
14 see it. So it's really an effort to put your best foot forward.

15 THE WITNESS: Exactly.

16 JUDGE SIPPEL: So you're not going to show the pimples
17 and the defects. You want everything glossy, glowing, punching.

18 THE WITNESS: Exactly. That's exactly what you're trying
19 to do.

20 JUDGE SIPPEL: Thank you.

21 THE WITNESS: Yes.

22 BY MR. GORDON:

23 Q But is the idea, though, of the sizzle reel to allow
24 advertisers to understand your programming and what kind of
25 demographics you're trying to attract with those?

1 A Absolutely, a big part of it.

2 MR. SPERLING: Your Honor, I'd like to pose an objection,
3 please. None of this is in her written direct. She's not an ad
4 sales person. But if Your Honor has questions, by all means, we
5 don't mean to get in the way of your questions, but there's no
6 basis for Mr. Gordon to be asking the questions on this subject.

7 JUDGE SIPPEL: Well, I've opened the door. I'm going to
8 let it go if it doesn't get too, I mean really the only problem I'm
9 having with this is the time. And that's my fault.

10 MR. SPERLING: Okay.

11 MR. GORDON: We'll move on. That was the only question
12 I was going to ask, Your Honor.

13 JUDGE SIPPEL: That's fine. Yes. You asked the question.
14 Did you get the answer? Let's go.

15 MR. GORDON: Did you finish your answer?

16 THE WITNESS: Sorry. Remind me of the question.

17 BY MR. GORDON:

18 Q Are sizzle reels important for advertisers to understand
19 what type of programming the network has and what kind of audience
20 you're trying to attract?

21 A Yes, that's my understanding. I work very closely with
22 the ad sales department.

23 JUDGE SIPPEL: Well, I'm going to follow up on that. An
24 experienced ad person, these are the people I categorize as the
25 men, they know what sizzle is just the way I described.

1 THE WITNESS: Yes.

2 JUDGE SIPPEL: So they're going to look at a sizzle reel
3 and they're going to say, what else you got?

4 THE WITNESS: Within the sizzle reel is where you are
5 telling them the story of your ratings and how successful you've
6 been at selling your network in. You know, there will be a whole
7 story there that might be informing advertisers just more about
8 your successes in that respect. Does that make sense?

9 JUDGE SIPPEL: It doesn't make any difference if it makes
10 sense. It's your answer. I'm saying, I mean you keep asking me.
11 You're answering a question by asking a question. Don't do that.

12 THE WITNESS: Okay.

13 JUDGE SIPPEL: But the sizzle reel is the way you
14 described. Well, never mind. Never mind. That's your answer,
15 okay.

16 THE WITNESS: Okay.

17 JUDGE SIPPEL: I'm finished with that.

18 MR. GORDON: We talked a little bit about the competitive
19 set, and let me move on and talk a little bit more about it.

20 THE WITNESS: Okay.

21 BY MR. GORDON:

22 Q Did you regularly monitor the networks that WE tv
23 considered to be in its competitive set during this 2009-2011 time
24 frame?

25 A Yes.

1 JUDGE SIPPEL: Who does it? Who does the monitoring?

2 THE WITNESS: Our research department will run the
3 reports, and they will be received by programmers like myself as
4 well as any other members of the senior team.

5 JUDGE SIPPEL: How often do you get those reports?

6 THE WITNESS: We get daily, weekly, monthly, quarterly,
7 annual, so on.

8 JUDGE SIPPEL: Okay.

9 THE WITNESS: As well as some ad hoc.

10 MR. GORDON: And let's just show the Judge what we're
11 talking about. If you turn to Tab 4 of your binder, we've got a
12 big stack of documents here. But can you tell the Judge generally
13 --

14 JUDGE SIPPEL: This is Exhibit 55?

15 MR. GORDON: Yes, Your Honor.

16 JUDGE SIPPEL: CV Exhibit 55.

17 MR. GORDON: Yes, and behind each blue sheet is another
18 exhibit that has been received already into evidence, and I'll
19 represent to everybody these are the same type of documents,
20 multiple examples, and just wanted Ms. Doree to show Your Honor,
21 explain to what this type of report was.

22 JUDGE SIPPEL: Well, let's take them one at a time. CV
23 Exhibit 55, that is a multi-page document and it looks like it has
24 some pretty extensively researched information. Now that's not a
25 routine report, is it?

1 THE WITNESS: Yes, that's a daily report we would
2 receive.

3 JUDGE SIPPEL: That's a daily report?

4 THE WITNESS: Yes.

5 JUDGE SIPPEL: Okay, go ahead.

6 BY MR. GORDON:

7 Q And what is the daily report looking at?

8 A The daily report would tell us how we performed the night
9 before, sometimes two nights before depending on the day of the
10 week. And then it breaks down, tells us how we performed show by
11 show in different day parts. Specifically looks at the women 18 to
12 49 and 25-54 demos. Breaks them down by quarter hour, which means
13 how we rated every 15 minutes over our 19-hour broadcast day. And
14 then if you, at the end of the report --

15 JUDGE SIPPEL: What page would that be?

16 THE WITNESS: That would be Page 8 of 21. We're still on
17 Exhibit 485.

18 JUDGE SIPPEL: You got the lingo down very well, 8 of 21.
19 Mr. Cohen's been trying to educate me on that system for several
20 days now. Go ahead.

21 THE WITNESS: You see a grid there, and that's what we'd
22 look at every day. The first column is our schedules, WE tv's
23 schedule with all our programs.

24 JUDGE SIPPEL: I see that.

25 THE WITNESS: And then next to it are these networks that

1 we talked about a little,

2

3 , and this is our competitive set. And we would look at
4 their programs hour by hour, half hour by half hour.

5 JUDGE SIPPEL: It says

6 THE WITNESS: Yes, it stands for

7 It's the way it goes into the ratings system.

8 JUDGE SIPPEL: Yes. Well, what's the difference between

9

10 THE WITNESS: The network is actually

11

12 JUDGE SIPPEL: Yes, I've seen it.

13 THE WITNESS: It used to be , so Nielsen

14 put it in as , I think probably because they

15

16 JUDGE SIPPEL: Oh.

17 THE WITNESS: In their system. I believe that's why.

18 JUDGE SIPPEL: Well, it's interesting. Speculation, but

19 in any event, the gist of this is , but you know

20 something different. This is one of these things that's not as it

21 appears to be. The reality is that it's a program that brands

22 similar to what you brand, which is the way you described the

23 branding.

24 THE WITNESS: I'm sorry. You're describing the network

25

1 JUDGE SIPPEL: Well, whatever or whatever it is, or
2 In other words, is not telling me what it really is. is
3 telling me something different.

4

5 THE WITNESS: I'm sorry. Nielsen actually just codes
6 these. Each network gets a coding.

7 JUDGE SIPPEL: Yes.

8 THE WITNESS: And their code for this network that's
9 called

10 JUDGE SIPPEL: Well, don't they care about getting it
11 right?

12 THE WITNESS: I don't know that they think that's wrong.
13 They just look for codes. They're limited. Like

14

15 JUDGE SIPPEL: Well, okay, that I understand.

16 THE WITNESS: Okay.

17 JUDGE SIPPEL: But the difference between
18 and what you represent to be your programming is different. Am I
19 right? I mean --

20 THE WITNESS: I'm sorry. I apologize. I don't really
21 understand what you're --

22 JUDGE SIPPEL: Well, okay. I'm going to stop asking the
23 question that way. I'm just going to take your answer the way you
24 gave it.

25 THE WITNESS: Okay.

1 THE COURT: Let's go on, Mr. Gordon.

2 MR. GORDON: But your understanding is that the
3 network , and this column for are the same?

4 THE WITNESS: Yes.

5 JUDGE SIPPEL: Are the same or are not the same?

6 MR. GORDON: Are the same. It's meant to represent that
7 network.

8 JUDGE SIPPEL: That's what I said, things are not as they
9 seem.

10 MR. GORDON: Yes.

11 JUDGE SIPPEL: A little inside story, but I'm talking to
12 myself so --

13 THE WITNESS: Okay, thank you for telling me that.

14 MR. GORDON: I don't want to go through every one of the
15 exhibits that follows in this tab, but are these all additional --

16 JUDGE SIPPEL: I'm sorry.

17 MR. GORDON: No, no problem.

18 JUDGE SIPPEL: I'm just consulting with my trusty
19 counsel. He's called my advisor. I mean he's got a job that's
20 called attorney advisor, he better advise, right? Want to get
21 paid.

22 MR. GORDON: I'm sorry, Cohen pays me either way, Your
23 Honor, so.

24 I don't want to go through each one of these, but
25 Exhibit, if you turn the blue page, these are all additional

1 examples of these daily reports?

2 THE WITNESS: Yes.

3 JUDGE SIPPPEL: Now, is Gameshow saying that she's not
4 competent to testify to this stuff?

5 MR. SPERLING: Your Honor, there's a reference to this in
6 her written direct. We have no problem with this.

7 JUDGE SIPPPEL: Okay, I jumped on the wrong thing. Go
8 ahead.

9 BY MR. GORDON:

10 Q Okay, let's flip to the next tab in the interest of time,
11 and before we were talking about reports. Is this set of documents
12 behind Tab 5, the first one being Cablevision Exhibit 58, another
13 example of the type of research report you receive from the
14 research department?

15 A Yes, this is an example of a weekly report, so it's
16 broader than the daily. It will summarize what happened across the
17 week and often a quarter to date. And --

18 Q If you turn to Page 6 of 13 on the first document, which
19 is Exhibit 58, Tab 5, 6 of 13.

20 A Yes. This is, again on this particular document, it's
21 looking at prime time in the quarter to date, the first quarter of
22 2009, and it is comparing our numbers for WE tv with our
23 competitive set. So again, we see

24 And if we look at Page 7, Page 7 is
25 actually show by show. So Page 6 is giving us an overview of the

1 network's overall performance, and then Page 7 is how we track
2 every single series that ran on those networks. So we know where
3 the hits are and the misses and so on. We track their successes.

4 Q Now in either of the two types of reports we looked at,
5 which were the daily and the weekly, do you recall GSN ever being
6 monitored or tracked by your research department?

7 A No, I don't.

8 Q Turn to Tab 6 if you will.

9 A Okay.

10 JUDGE SIPPEL: Are all these programs listed on Page 7 of
11 13 in Exhibit 58, are they all nonscripted programs?

12 THE WITNESS: Not all of them. A majority but not all of
13 them.

14 JUDGE SIPPEL: Okay, good enough. Tab 6.

15 BY MR. GORDON:

16 Q Okay, and could you explain to the Judge what this type
17 of document is?

18 A Yes, this is an example of what we call an ad hoc
19 request. So in addition to getting regular reports on our
20 competitive set we would also often ask for a specific report. In
21 this case this is and it's breaking down by day the
22 specific programming they aired and the delivery, women 18 to 49
23 and 25-54 and some information about the shows.

24 Q Okay. And did you ever receive or request a report on
25 GSN as --- for one of these ad hoc competitive reports?

1 A Not that I can recall, no.

2 Q Since you've begun in your position, have you ever sought
3 to track or monitor GSN as a competitor?

4 A Not that I can recall in my 14 years doing this.

5 Q Okay. And why not?

6 A We did not consider GSN to be a competitive network. WE
7 tv was a women's network, and GSN was a game show network as far as
8 our perception was concerned.

9 MR. GORDON: I have nothing further.

10 JUDGE SIPPEL: Cross examine?

11 MR. SPERLING: Yes, please, Your Honor.

12 JUDGE SIPPEL: Mr. Sperling. Good morning, sir.

13 MR. SPERLING: Good morning to you, Your Honor. Good
14 morning, Ms. Doree.

15 THE WITNESS: Good morning.

16 MR. SPERLING: My name's Jonathan Sperling. I represent
17 GSN. I just wanted to first, let me ask you. In your answer to
18 your original question from Mr. Gordon you talked about the fact
19 that over the course of your 14 years, WE tv has been a women's
20 network. That's correct?

21 THE WITNESS: Yes.

22 CROSS EXAMINATION

23 BY MR. SPERLING:

24 Q And that was true, I think you said, from 2009 to 2011?

25 A Yes.

1 Q That's true today also, right?

2 A Yes.

3 Q In response to one of the Judge's questions as to whether
4 WE and have the same branding, I think you said that you
5 don't, and one of the things you pointed to was slogan.
6 Is that right?

7 A The tag line,

8 Q And is the tag line an expression of the brand?

9 A It's meant to be, yes.

10 Q Okay. And the brand is part of how you communicate,
11 right, that you're targeting a women's audience?

12 A Yes. I had to think about it, yes.

13 MR. SPERLING: I'm going to actually hand you a binder of
14 documents just like Mr. Gordon did. You'll be happy to hear that
15 mine's a little bit smaller.

16 Your Honor, may I approach?

17 JUDGE SIPPEL: You may.

18 MR. SPERLING: Thank you, sir.

19 THE WITNESS: Thank you.

20 JUDGE SIPPEL: Thank you.

21 THE WITNESS: Your Honor, would it be possible for me to
22 just take a moment to stretch my back?

23 JUDGE SIPPEL: Why don't we take a 15-minute break?

24 MR. GORDON: Up to Your Honor.

25 MR. SPERLING: Yes.

1 JUDGE SIPPPEL: 15 minutes, we're off the record.

2 (Whereupon, the above-entitled matter went off the record
3 at 10:54 a.m. and went back on the record at 11:12 a.m.)

4 JUDGE SIPPPEL: We're on the record.

5 MR. SPERLING: Thank you, Your Honor.

6 JUDGE SIPPPEL: You're still under oath, ma'am. Mr.
7 Sperling?

8 MR. SPERLING: Thank you, Your Honor.

9 BY MR. SPERLING:

10 Q Ms. Doree, just before we took the break, we were talking
11 about the slogan, meaning the tag line, correct? The tag line
12 expresses the brand, correct?

13 A Yes.

14 MR. SPERLING: And that's part of how you target women,
15 correct?

16 JUDGE SIPPPEL: I'm taking good notes.

17 MR. SPERLING: Okay. Let me ask you if you could turn in
18 the binder that I handed you to the document at the tab that says
19 GSN Exhibit 352. So, they're in numerical order.

20 (Whereupon, the above-referred to document was marked as
21 GSN Exhibit 352 for identification.)

22 MS. DOREE: Okay.

23 JUDGE SIPPPEL: 352.

24 MR. SPERLING: That's the one, Your Honor, towards the
25 back.

1 JUDGE SIPPEL: I got you. Okay, this is GSN Exhibit 352.

2 MR. SPERLING: Correct, Your Honor.

3 JUDGE SIPPEL: GSN means Game Show, is that right?

4 MR. SPERLING: I believe -

5 JUDGE SIPPEL: The Game Show Network?

6 MR. SPERLING: I believe today the name of the company is
7 simply GSN, Your Honor.

8 JUDGE SIPPEL: Okay, well that's all right. I'm trying
9 to explain to the witness what it means.

10 MR. SPERLING: Ah, I thought you were posing a question
11 to me. I apologize.

12 JUDGE SIPPEL: Oh, no, no, no. I'm sorry.

13 BY MR. SPERLING:

14 Q Ms. Doree, do you see the email that's at GSN Exhibit
15 352?

16 A Yes, I do.

17 Q And that's the email sent by Kenetta Baily in December of
18 2008, correct?

19 A Yes.

20 Q And at the time she was the Senior Vice President of
21 Marketing at WE?

22 A I believe that's correct, yes.

23 Q Okay, and if you look, there's a somewhat long list of
24 recipients of the email, but your name is the third from the last,
25 correct?

1 A Yes, that's correct.

2 Q Okay, and this is the email that you received, is that
3 right?

4 A Yes.

5 Q You see at the beginning of the email she says in the
6 paragraph, "By now, everyone should be familiar with the process as
7 you've all had an opportunity to participate in it over the past
8 four to five months since this summer's WE tv senior staff
9 offsite." Is that right there was a senior staff offsite in the
10 summer of 2008?

11 A I don't recall if there was.

12 Q Do you have any reason to doubt that there was?

13 A No.

14 Q Okay, and would you have participated if there was one?

15 A Yes, unless I was on vacation.

16 Q Okay, and actually if you go to the line above that it
17 says, "We have a new tag line for the network. Yes, it's simply
18 fascinating." Do you see that?

19 A Yes.

20 Q Do you remember there being discussion around this time
21 over the network adopting a new tag line?

22 A Yes, I do.

23 Q Okay, if you go to the paragraph beginning after the
24 numbered list, you see in the second line there's a sentence
25 beginning with the word, "however." Do you see that?

1 A Yes, I do.

2 Q And it says, "However, a concern expressed in the meeting
3 and in conversations with Kim gave us pause about the word "women"
4 in the tag line. First, we wouldn't want to alienate men who are
5 co-viewers." Do you see that?

6 A Yes, I do.

7 Q And if you skip to the next sentence, it says, "Second,
8 we wouldn't want to have a disconnect in viewers' minds given some
9 of our key series' talent are male, and several real life stories
10 we feature are about men." Do you see that as well?

11 A Yes.

12 Q And finally, if you skip down three lines from there,
13 there's a sentence beginning with the word, "and." And it says,
14 "And we look to see which tag lines, if any, communicated the
15 essence of 'fascinating real women' without using the word women."
16 Do you see that?

17 A Yes, I do.

18 Q The fact that WE tv didn't want to alienate men, and had
19 real life stories that it featured about men, and didn't want to
20 use the word "women" in its tag line doesn't mean that it wasn't a
21 women's network, right?

22 A That's correct. It doesn't mean that.

23 Q It doesn't mean that it wasn't a network targeting women
24 25 to 54?

25 A Sorry, I'm processing the double negative.

1 Q Yeah, I'll try to simplify it for you.

2 A Okay.

3 Q Notwithstanding that WE was concerned about using the
4 word "women" in its tag line and didn't want to alienate male
5 viewers, WE was still a women's network that targeting women 25 to
6 54, right?

7 A That's correct.

8 MR. SPERLING: Let me ask you to - actually, before we
9 move to the next document, Your Honor, I'd like to move GSN 352
10 into evidence.

11 JUDGE SIPPEL: Any objection?

12 MR. GORDON: No objection, Your Honor.

13 JUDGE SIPPEL: GSN Exhibit 352 is received into evidence.

14 (Whereupon, the above-referred to document was received
15 into evidence as GSN Exhibit 352.)

16 MR. SPERLING: Thank you, Your Honor. Ms. Doree, if I
17 could ask you to turn back in the binder towards the front to GSN
18 310?

19 (Whereupon, the above-referred to document was marked as
20 GSN Exhibit 310 for identification.)

21 MS. DOREE: Okay.

22 JUDGE SIPPEL: 410?

23 MR. SPERLING: 310, Your Honor, 3-1-0.

24 JUDGE SIPPEL: So we're going to the back, to the front,
25 I mean. All right, I have it.

1 BY MR. SPERLING:

2 Q Ms. Doree, who is Christina Pisano?

3 A She was our Vice President of Research for WE tv.

4 Q Okay, and if you look at the email that is forwarded to
5 her, this email, I'll give you a chance to read it, seems to be
6 reporting on the ratings for the program "Bridezillas." Do you see
7 that?

8 A I just want to familiarize myself with this. I haven't
9 seen it before.

10 Q Is July of 2009 around the time when you launched
11 Bridezillas?

12 A We would have likely launched Bridezillas, yes, in June.
13 It wasn't the first season. It was probably the eighth for the
14 program.

15 Q Okay, so - but that season would have launched around the
16 summer of 2009?

17 A Yes.

18 Q Is that right?

19 A That's right.

20 Q And Bridezillas was a program that was targeted at women,
21 correct?

22 A That's correct.

23 Q Okay, if you look at the second paragraph of the email
24 from Ray Giacopelli, the fourth lines says, "Additionally, men are
25 up 117 among 35 to 49s, double among 50 plus, and importantly, 56

1 percent among 18 to 49 to Think about that. MEN

2 18 to 49, greater than our prime norms or even golden girl norms
3 among women 18 to 49." Do you see that sentence?

4 A Yes, I do.

5 Q And if you go to the second to the last line of this
6 paragraph, it says, "This does help ad sales, which is not just
7 selling women, but more than ever adults 18 to 49s as well." Do
8 you see that?

9 A Yes, I do.

10 Q Okay, the fact that WE tv was selling adults 18 to 49 and
11 tracking ratings for adults and men in connection with Bridezillas
12 doesn't mean that Bridezillas wasn't a program directed at women,
13 right?

14 A That is correct.

15 Q Okay, and it doesn't mean that WE tv was not a women's
16 network trying to target a demographic of women 25 to 54, correct?

17 A That is correct.

18 MR. SPERLING: Let me ask you to turn, and I apologize
19 for the flipping back and forth.

20 JUDGE SIPPEL: Before you move on, I've got - the date on
21 this is - Christina Pisano sent this out on July 8, 2009. Is that
22 correct? Are you following me?

23 MS. DOREE: Yes.

24 JUDGE SIPPEL: And you told me when I asked about Rosie
25 Pisani versus Kenetta Baily, according to my notes, you said,

1 "Rosie Pisani was now in charge of branding." I don't have what
2 her title is, but was it - is she - was she Vice President of
3 Research back in 2009?

4 MS. DOREE: No, these are two different people. This is
5 Christina Pisano.

6 JUDGE SIPPEL: Yeah.

7 MS. DOREE: And then in research marketing was Rosie
8 Pisani. Those are two different women.

9 JUDGE SIPPEL: Oh, okay, okay. Let's go.

10 MR. SPERLING: Okay.

11 JUDGE SIPPEL: I'm sorry. I apologize.

12 MR. SPERLING: Your Honor, no need to apologize.

13 JUDGE SIPPEL: Well, I don't like to confuse the record,
14 or the witness, or myself.

15 MR. SPERLING: We're with you, Your Honor. Ms. Doree,
16 could I have you turn please to GSN Exhibit 354?

17 (Whereupon, the above-referred to document was marked as
18 GSN Exhibit 354 for identification.)

19 MS. DOREE: Okay.

20 BY MR. SPERLING:

21 Q All right, you testified earlier that you are familiar
22 with WE's ad sales, correct, and have worked closely with the ad
23 sales team?

24 A I have familiarity with the way we present it to the
25 community as a whole.

1 Q Okay, if you could look at the spreadsheet that's on the
2 flip-side of the page at GSN Exhibit 354, you see at the top it
3 says, "WE target account master lists."

4 A Yes.

5 Q And then beneath that it says, "Customized target
6 accounts." Do you see that?

7 A Yes.

8 Q And these are all advertisers or potential advertisers
9 listed here, correct?

10 A I've never seen the document before. I'm not sure.

11 Q Well, if you look at the seventh column from the left,
12 you see that the header on the column says, "buying demo."

13 A Yes.

14 Q And that would be relevant for somebody buying
15 advertisements, correct?

16 A Because I don't know the document, I don't know what - if
17 this was - who created this, if it was by the advertiser or by
18 someone at our network.

19 Q Well, if you look at the footer at the bottom right it
20 says, "Rainbow ad sales biz dev." Do you see that?

21 A Yes, I do.

22 Q And that suggests to you that this was created by the
23 Rainbow ad sales business development group?

24 A I don't know.

25 Q Do you think an advertiser would be creating a list of 57

1 advertisers all related to WE with WE's trademark or logo in the
2 upper left?

3 A I don't know.

4 Q I thought you testified earlier that you worked closely
5 with the ad sales department and you were very familiar with how
6 you market yourself to advertisers. Did I misunderstand?

7 A No, you did not misunderstand.

8 Q Okay, Ms. Doree, isn't it a fact that this document lists
9 57 customized target accounts that WE is targeting for ad sales?

10 A Again, I don't know if this was generated by WE tv, so I
11 don't know, but I can see that it does say "target account" with
12 our logo next to it.

13 Q And you agree with me that it concerns ad sales, correct?

14 A Yes, this appears to be advertisers as best I can tell.

15 Q And do you see that the column that we looked at, buying
16 demo, lists for each of the advertisers identified here a
17 demographics that they are buying or seeking to buy?

18 A I see that there are recognized demographics under the
19 header "buying demo."

20 Q Okay.

21 A Yes.

22 Q And if you look at the first set of rows that says, "fall
23 targets 2010," some of the demographics identified, there are women
24 25 to 54, correct?

25 A Correct.

1 Q Some are adults 25 to 54, correct?

2 A Correct.

3 Q Some are adults 18 to 49, right?

4 A Right, yes.

5 Q Some are women 18 to 49, correct?

6 A Yes.

7 Q If you go to the next group, "winter targets (January
8 2011)" they are all adult demographics except for the last one,
9 right?

10 A Yes.

11 Q And in fact, if you count up, and I'm happy to give you
12 the time to do so, of the 57 advertisers listed here, are
13 identified as having a target demographic of adults, and
14 having a target demographic of women. Do you see that?

15 A I trust your math.

16 Q No reason to dispute that that's the count?

17 A No reason to dispute that.

18 Q Now, the bottom set of tables on this page has a heading,
19 "target account meeting dates." Do you see that?

20 A Yes.

21 MR. SPERLING: And it looks like there are three sets of
22 boxes. Each one identifies accounts, and each one has in the far
23 right a column with the header -

24 MR. COHEN: I'm sorry, I'm not sure Mr. Feldman should be
25 in the room for this.

1 MR. SPERLING: Okay.

2 MR. COHEN: Unless you're going to - if you're going to
3 make specific reference to these documents.

4 MR. SPERLING: We can excuse him.

5 JUDGE SIPPEL: Yes, you're excused, sir.

6 (OPEN SESSION ENDS)

7 (CLOSED SESSION BEGINS)

8 BY MR. SPERLING:

9 Q So Ms. Doree, again, you see that there is a row of three
10 boxes at the bottom of the page?

11 A Yes.

12 Q Each one in the left-hand column lists accounts. Do you
13 see that?

14 A Yes, I do.

15 Q And the accounts appear to be names of advertisers?

16 A Yes.

17 Q And the far right column says, "submitted/closed." Do
18 you see that?

19 A Yes, I do.

20 Q And for certain advertisers in the column with the header
21 "submitted/closed" there are numbers. Do you see that?

22 A In the pink box?

23 Q In the pink box, correct.

24 A Yes.

25 Q Do those numbers represent ad sales?

1 A I don't know.

2 Q I'd like you to assume. I realize you don't know the
3 origin of the document. I'd like to assume for a moment that this,
4 in fact, was generated by the Rainbow ad sales business development
5 staff as the footer at the bottom right suggests. Assuming that's
6 the case, would the fact that WE is selling to advertisers who are
7 targeting a demographic of adults rather than women mean that WE is
8 not a women's network?

9 A No, I understand our primary target is women 25 to 54 and
10 18 to 49.

11 Q And even though this page shows top advertisers and
12 of them are targeting adults rather than women,
13 it's still the case that WE is a women's network that targets women
14 25 to 54, right?

15 MR. GORDON: Objection, I think you might have misspoke
16 in your question. Do you want to -

17 MR. SPERLING: I'll ask the question again.

18 MR. GORDON: I think you meant to say "target" not "top."

19 MR. SPERLING: Thank you, I'll ask the question again.

20 BY MR. SPERLING:

21 Q Even though the document lists target accounts,
22 of which are targeting adults rather than women, it's still
23 the case that WE is a women's network that targets women, right?

24 A Yes, WE tv is still a network that targets women.

25 MR. SPERLING: Let me ask you to - actually, Your Honor,

1 I'd like to move Exhibit 354 into evidence.

2 JUDGE SIPPEL: Any objection?

3 MR. SCHMIDT: I thought it was in.

4 MR. GORDON: I did too, but -

5 MR. SPERLING: I think we have a little bit past 300, but
6 I don't believe this one is in.

7 MR. GORDON: Okay, no objection.

8 MR. SPERLING: Thank you.

9 JUDGE SIPPEL: GSN Exhibit 354 is received into evidence.

10 (Whereupon, the above-referred to document was received
11 into evidence as GSN Exhibit 354.)

12 MR. SPERLING: Thanks, Your Honor.

13 JUDGE SIPPEL: I've got a question since you're going to
14 shift to another area now or something.

15 MR. SPERLING: Same thing, different document, but please
16 go on, Your Honor.

17 JUDGE SIPPEL: Let me ask my question here. I'm going
18 back to this GSN Exhibit 310. Had you seen this document before?
19 Your name doesn't seem to be on it.

20 MS. DOREE: No, I don't believe I've seen it before this.

21 JUDGE SIPPEL: What was your - what were you doing back
22 in July of 2009?

23 MS. DOREE: I was the Senior Vice President of Scheduling
24 and Acquisitions.

25 JUDGE SIPPEL: Okay, the same job as you got?

1 MS. DOREE: Pretty much, yes, sir.

2 JUDGE SIPPEL: And this is Christina Pisano telling
3 Melissa Filippone about her answering her Bridezilla's questions
4 saying that "Additionally," additionally now, "Men are up 117
5 percent among 35 to 49, double among 50 plus, and importantly, 56
6 percent among men 18 to 49 to," what is that, I
7 guess.

8 "Think about that. men 18 to 49, greater than
9 our prime norms or even golden girls norms among women 18 to 49.
10 Interesting. Does this mean greater co-viewing?" What does that
11 mean to you? I mean, is - was - is this the way things work?

12 MS. DOREE: Are you asking me to -

13 JUDGE SIPPEL: I'm asking you to -

14 MS. DOREE: My impression?

15 JUDGE SIPPEL: I'm asking you in general, do you know
16 about - did you know about this? Do you know about this? Does
17 this kind of information get reviewed from time to time?

18 MS. DOREE: Yes, I don't know that I reviewed this exact
19 data, but from time to time, yes, this was actually written by Ray
20 Giacobelli and forwarded.

21 JUDGE SIPPEL: Did I say that?

22 MS. DOREE: It was -

23 JUDGE SIPPEL: Oh, I see.

24 MS. DOREE: It appears to be a series of forwarding.

25 JUDGE SIPPEL: Okay, go ahead.

1 MS. DOREE: Yes, it does not surprise me to read this.
2 It doesn't change anything in my perspective of the show.

3 JUDGE SIPPEL: No, I'm not, I'm not - yeah, I understand
4 that. But I looked at these numbers and I said holy cow. I mean,
5 they're pretty impressive numbers and we've been talking here only
6 about a show targeted towards women. It sounds like you're doing
7 pretty well among the double viewers, or not the double. What
8 would you call them, joint viewers?

9 MS. DOREE: Or co-viewing.

10 JUDGE SIPPEL: Co-viewing.

11 MS. DOREE: Well, may I add that probably the number of
12 people, and I would have to guess at this just based on my
13 experience -

14 JUDGE SIPPEL: Well, then don't guess.

15 MS. DOREE: No?

16 JUDGE SIPPEL: Don't guess.

17 MS. DOREE: I could approximate though.

18 JUDGE SIPPEL: Approximate is okay. That's not a guess.

19 MS. DOREE: Okay, I would - it's a - I would say
20 approximately, in this season of Bridezillas, there were
21 approximately or women watching the show. What
22 this says here, if I'm reading this correctly, is that are
23 men, which would still make the show overwhelmingly female.

24 JUDGE SIPPEL: Well, that's your characterization. I
25 mean, the numbers speak for themselves, I guess. But obviously,

1 somebody thought enough of this to send it up the line, or down the
2 line, however it is, to let folks know what's going on. And I'm
3 just - I'm saying is this - I'm going to ask the question this way.
4 Is this trend continuing today?

5 MS. DOREE: The trend of men?

6 JUDGE SIPPEL: Of men. I don't mean jumping that much,
7 but the trend of a substantial - I'll put the characterization - a
8 substantial or significant number of men are watching this show or
9 your programming?

10 MS. DOREE: I'm trying to think, Your Honor, how to
11 answer it because I don't take these numbers to be significant in
12 the male numbers.

13 JUDGE SIPPEL: All right.

14 MS. DOREE: They've increased significantly, but I do not
15 interpret men to be - it's not a large percentage.

16 JUDGE SIPPEL: All right, but -

17 MS. DOREE: But yes, we continue to get male and female
18 viewers on our network.

19 JUDGE SIPPEL: But has it - do you know, has it been
20 maintained at this level, that is the level to which it jumped as
21 opposed to it going down?

22 MS. DOREE: Oh, I don't -

23 JUDGE SIPPEL: Is it up or higher?

24 MS. DOREE: I don't know only because this is one
25 specific series.

1 JUDGE SIPPEL: Bridezillas.

2 MS. DOREE: Right, this is one specific series which is
3 a series we don't air any longer. It was canceled several years
4 ago.

5 JUDGE SIPPEL: That's the end of my question.

6 MS. DOREE: Oh, I'm sorry. I didn't realize you were
7 asking -

8 JUDGE SIPPEL: No, that's fine. You've answered my
9 questions. Go ahead.

10 BY MR. SPERLING:

11 Q Ms. Doree, just staying on this document that the judge
12 is pointing to, so again, we've looked at the second to the last
13 line which says, "This does help ad sales, which is not just
14 selling women, but more than ever adults 18 to 49s as well." Does
15 the fact that WE was selling adults 18 to 49 to advertisers mean
16 that you weren't similarly situated with other networks that were
17 selling women 25 to 54?

18 MR. GORDON: Objection to "similarly situated."

19 JUDGE SIPPEL: Do you understand?

20 MR. SPERLING: I'll rephrase the question. I'm happy to
21 rephrase the question.

22 BY MR. SPERLING:

23 Q Does the fact that WE was selling adults 18 to 49 mean
24 that it wasn't competitive with networks that were selling women 25
25 to 54?

1 A I'm sorry, I'm trying to understand the question. Does
2 it mean that - I'm sorry, could you repeat it?

3 Q Sure, we talked about - you talked earlier about the fact
4 that you have a competitive set, right?

5 A Yes.

6 Q And you identified networks like as
7 being part of your competitive set, right?

8 A Correct.

9 Q Does the fact that WE was selling adults 18 to 49 to
10 advertisers mean that WE wasn't competitive with

11 A Oh, no, it does not mean that.

12 Q Would you agree with the assertion that if you're selling
13 advertisers based on a demographic of adults, whether it's 18 to 49
14 to 25 to 54, that shows that you're not a women's oriented network?

15 A I apologize, I'm trying to get the whole sentence. Ask
16 it one more time.

17 Q Yeah, do you agree with the assertion that if you're
18 selling advertisers based on a demographic of adults, that you're
19 not a network that targets women?

20 A Do I agree that we're not a network? No, I don't agree
21 we're not a network. I'm sorry, I'm having trouble with the -

22 Q I'm going to try one more time.

23 A - double negatives. I'm sorry.

24 Q If networks selling adults - I'm going to even make it
25 clearer, or try to at least. If a network is selling ads to

1 advertisers based on a target demographic of adults, does that show
2 that the network is not a women's network?

3 A No, that does not show that it's not a women's network.

4 Q Okay.

5 A Thank you for that.

6 Q Thanks for working through it with me.

7 A I have a hard time with double negatives.

8 MR. SPERLING: Let me ask you to turn please to GSN 334
9 which conveniently is the very next tab in your binder.

10 (Whereupon, the above-referred to document was marked as
11 GSN Exhibit 334 for identification.)

12 MS. DOREE: Okay.

13 JUDGE SIPPEL: What was the tab?

14 MR. SPERLING: It's 334, Your Honor.

15 JUDGE SIPPEL: I have it.

16 MR. SPERLING: Now, Ms. Doree, you'll recall that -

17 MR. COHEN: I'm sorry, I think you can open the
18 courtroom, Your Honor.

19 MR. SPERLING: Yes, I believe we can.

20 JUDGE SIPPEL: Thank you. Thank you, Mr. Cohen. We're
21 open. We're open for business.

22 (CLOSED SESSION ENDS)

23 (OPEN SESSION BEGINS)

24 BY MR. SPERLING:

25 Q Ms. Doree, if you turn to the first page, first

1 substantive page, it's stamped GSN 334-002 on the bottom right. Do
2 you see that?

3 A Yes, I do.

4 Q And you remember that Mr. Gordon showed you some
5 documents similar to this one at Tab 5 of his binder?

6 A That appears to be correct.

7 Q Okay, and this document is tracking WE sales prime
8 performance by week. Do you see that at the top?

9 A Yes, in the live same day ratings system.

10 Q That's what Live SD stands for?

11 A Yes, sorry, live same day viewing.

12 Q Thanks, and so this is tracking ad sales in prime time
13 based on live same day?

14 A No, this is tracking delivery.

15 Q Delivery?

16 A Yes.

17 Q Thank you for that clarification. And the first of the
18 three lines that appear on the chart, that line is tracking your
19 performance based on adults 25 to 54, correct?

20 A Yes, that's correct.

21 Q And only after that does it track the delivery of women
22 25 to 54?

23 A That is correct.

24 Q Okay.

25 A It would track the larger number on top.

1 MR. SPERLING: Your Honor, I ask to move this exhibit
2 into evidence, GSN 334.

3 MR. GORDON: No objection.

4 MR. SPERLING: Ms. Doree, if I could ask you to turn -

5 JUDGE SIPPEL: Just a minute.

6 MR. SPERLING: Yes, sorry, Your Honor, I'm getting ahead
7 of you.

8 JUDGE SIPPEL: It's received into evidence as GSN Exhibit
9 334.

10 (Whereupon, the above-referred to document was received
11 into evidence as GSN Exhibit 334.)

12 MR. SPERLING: Thank you, Your Honor. Ms. Doree, can I
13 ask you please to turn to GSN Exhibit 339 in the binder?

14 (Whereupon, the above-referred to document was marked as
15 GSN Exhibit 339 for identification.)

16 MS. DOREE: Okay.

17 BY MR. SPERLING:

18 Q And if you turn to Page 3, and by that I mean it's the
19 one with the stamp ending in GSN Exhibit 339-003.

20 A Yes, I see that.

21 Q Do you have that page in front of you?

22 A Yes, I do.

23 MR. SPERLING: And it says, "competitive performance."

24 MS. DOREE: Excuse me.

25 JUDGE SIPPEL: Would you like to take a drink?

1 MS. DOREE: Yes, thank you.

2 JUDGE SIPPEL: Of water.

3 MS. DOREE: I actually meant the other kind, Your Honor,
4 but thank you. Yes, I do see that.

5 BY MR. SPERLING:

6 Q And this page is showing performance against your
7 competitors, correct?

8 A I just want to familiarize myself with it.

9 Q Take your time.

10 A Yes.

11 Q And it's tracking your performance relative to your
12 competitors based on both adults 25 to 54 and women 25 to 54,
13 correct?

14 A That's correct.

15 Q And again, none of this changes the fact that WE tv was
16 a women's network that targeted women, right?

17 A That is correct.

18 MR. SPERLING: Let me ask you - actually, Your Honor, I'd
19 like to move GSN Exhibit 339 into evidence.

20 JUDGE SIPPEL: Any objection?

21 MR. GORDON: No objection, Your Honor.

22 JUDGE SIPPEL: GSN Exhibit 339 is received.

23 (Whereupon, the above-referred to document was received
24 into evidence as GSN Exhibit 339.)

25 MR. SPERLING: Thank you, Your Honor. Ms. Doree, can I

1 turn you please to the tab immediately before that one? It's GSN
2 Exhibit 338.

3 (Whereupon, the above-referred to document was marked as
4 GSN Exhibit 338 for identification.)

5 MS. DOREE: Okay.

6 BY MR. SPERLING:

7 Q And this is a WE research update, correct?

8 A Yes.

9 Q Turn to the second page. It's stamped Exhibit 338-002 in
10 the bottom right.

11 A Yes, I see that.

12 Q And you see this slide says, "WE tv's best May ever. May
13 2014 was WE tv's best May ever in prime Monday to Sunday, 8:00 p.m.
14 to 11:00 p.m. among all key demos." Do you see that?

15 A Yes.

16 Q And after it says "all key demos" it identifies women 18
17 to 49, women 25 to 54, people 18 to 49, people 25 to 54, and people
18 two plus. Do you see that?

19 A Yes, I do.

20 Q The fact that people are identified as being among all
21 key demos here again doesn't mean that WE tv wasn't a women's
22 network, right?

23 A That's correct.

24 Q And it doesn't mean that WE tv wasn't targeting women 25
25 to 54, right?

1 A That's correct.

2 Q Now, you talked earlier about the fact that
3 were among the members of which you considered to be WE's
4 competitive set, is that right?

5 A That's correct.

6 MR. SPERLING: Do they - strike that question. Let me
7 ask you to turn please to GSN Exhibit 177, which is in the binder
8 in front of you.

9 JUDGE SIPPEL: We're going backwards?

10 MR. SPERLING: We are. And Your Honor, before I ask the
11 witness about 177 -

12 JUDGE SIPPEL: I have it. Yes?

13 MR. SPERLING: I just wanted to move 338, the last one we
14 looked at, into evidence.

15 JUDGE SIPPEL: Objection?

16 MR. GORDON: No objection, Your Honor.

17 JUDGE SIPPEL: Then Exhibit - was it 338?

18 MR. SPERLING: Yes, Your Honor.

19 JUDGE SIPPEL: 339 wasn't it?

20 MR. GORDON: 338, I believe, Your Honor.

21 MR. SPERLING: The last one we looked at was 338, Your
22 Honor. We had looked at 339 immediately before that.

23 JUDGE SIPPEL: Exhibit 338 is received into evidence.

24 (Whereupon, the above-referred to document was received
25 into evidence as GSN Exhibit 338.)

1 MR. SPERLING: Thank you.

2 JUDGE SIPPEL: That's GSN Exhibit 338. And now we're on
3 GSN Exhibit 177?

4 MR. SPERLING: That's right, Your Honor.

5 JUDGE SIPPEL: Thank you.

6 BY MR. SPERLING:

7 Q Ms. Doree, have you seen documents of the same type as
8 GSN Exhibit 177 previously?

9 A Yes, I believe these are the Cable Advertising Bureau.
10 They look like the Cable Advertising Bureau sheets.

11 Q And you see that this is a Cable Advertising Bureau sheet
12 for Oxygen?

13 A Yes, that's what it appears to be.

14 Q

15

16 A

17 Q And it doesn't have a date on it, but let me point you to
18 a couple of landmarks and see if you and I can agree on a likely
19 date range for this document. If you turn to the page that's
20 number four in the bottom center, do you see that it refers to new
21 programs for 2012?

22 A Yes.

23 Q And if you go to the previous page, the source for some
24 of the data, the sources for some of the data are typically
25 identified as being from 2011 or 2010. Do you see that?

1 A I'm sorry.

2 Q Yeah, I'm on Page 3.

3 A Yes, is it the small print?

4 Q The small print at the bottom of the viewer profile
5 section and the bottom of the viewer lifestyle section.

6 A MRI 2010, is that one of them, and Nielsen Company? Yes,
7 I see what you're referring to.

8 Q Would you agree with me that the date of this document is
9 likely late 2011 or early 2012?

10 A Let me see. Yes, that sounds right.

11 Q Okay, if you go back to Page 3 and look right at the top
12 of the page, you see there's a heading that says, "Viewer
13 targeted?"

14 A Yes.

15 Q And there are three sets - it's arguably more than three.
16 Why don't we read the viewers targeted? First it says women 18 to
17 34, 18 to 49, and 25 to 54. Do you see that?

18 A Yes.

19 Q After that, it says that viewers targeted are men 18 to
20 49 and 25 to 54. Do you see that?

21 A Yes.

22 Q And those are distinct demographic groups that are
23 recognized in the television industry?

24 A That's correct.

25 Q And then finally it also identifies as a targeted viewer

1 demographic persons 18 to 49 and 25 to 54. Do you see that?

2 A Yes.

3 Q And the fact that Oxygen was identifying a target
4 demographic of men as well as persons didn't mean that
5 ?

6 A I don't know about the source of the document, if it's
7 provided by the network, but I do see what you're referring to
8 here.

9 Q Sorry, I didn't mean to cut you off. Are you done?

10 A Done.

11 Q And you don't believe that the identification of these
12 demographics as being targeted viewers of Oxygen means that
13 ?

14 A That's correct.

15 Q Now, you testified in response to some of Mr. Gordon's
16 questions about how median age is very important to you. Is that
17 right?

18 A Yes.

19 Q And median age helps you determine who your competitors
20 are?

21 A It's one of the factors, yes.

22 MR. SPERLING: Okay, let me ask you to turn please to GSN
23 Exhibit 285.

24 JUDGE SIPPEL: What's the status of this document?

25 MR. SPERLING: This document is already in, Your Honor.

1 JUDGE SIPPEL: Okay, and the next one you're going to go
2 to?

3 MR. SPERLING: 285, GSN 285.

4 JUDGE SIPPEL: Got it.

5 BY MR. SPERLING:

6 Q Do you have that in front of you, Ms. Doree?

7 A Yes, I do.

8 Q Let me ask you to turn please first to the first
9 substantive page of the document.

10 A Okay.

11 Q That is "WE sales prime (6 p.m. to 1 a.m.)." Do you see
12 that?

13 A Yes, I do.

14 Q And here WE is tracking its delivery of people 25 to 54
15 as well as women 25 to 54, correct?

16 A Yes, in our sales prime live same day, and this appears
17 to be in this week, yes.

18 Q Now, let me ask you to go to the next page please.

19 A Okay.

20 Q Do you see the bottom table on that page? It says a
21 header, "WE and key competitors prime time quarter and season to
22 date versus prior year performance."

23 A Yes.

24 Q So this is measuring how WE is doing on various metrics
25 against its key competitors, correct?

1 A Yes.

2 Q If you look at the bottom half where it says, "prime time
3 8 p.m. to 11 p.m. 2014 year to date?"

4 A Yes.

5 Q What's the median age that is indicated for WE tv?

6 A I'm sorry, let me just find it, years.

7 Q And the median age identified for your
8 competitor, a member of your competitive set, is there,
9 correct?

10 A That's correct.

11 Q And that year difference doesn't mean that WE tv is
12 not part of competitive set, right?

13 A I don't know. They are part of our competitive set.

14 Q Yeah.

15 A I assume we are part of theirs.

16 Q Yeah, no, I appreciate the correction of my question.
17 Let me ask again to be clear. Notwithstanding that year
18 difference in median age, is still part of WE's competitive
19 set, correct?

20 A That's correct.

21 Q And if you go to the top part of that table which is
22 measuring for the fourth quarter of '14, in that part of the table,
23 WE tv's median age is identified as Do you see that?

24 A Yes, although it is not the full quarter. It appears to
25 be one week of the quarter.

1 Q Got it. And for that period that's being measured,
2 is also identified as one of your key competitors here, right?

3 A Yes.

4 Q And you see that median age identified there is

5

6 A Yes.

7 Q And you also don't view that difference between and
8 as meaning that can't be a key competitor to WE, correct?

9 A That's correct. It's a one-week period. Fluctuation can
10 be pretty good and strong.

11 Q Okay, the bottom part of the chart that we looked at that
12 had with its median age of that was year to date,
13 correct?

14 A Yes, that's correct.

15 Q Not one week?

16 A That is correct.

17 Q Okay, Ms. Doree, sitting here today, do you know what
18 percentage of viewership is female, their so-called female
19 skew?

20 A Sitting here today, I do not know an exact number, no.

21 Q And do you recall at your deposition you couldn't say one
22 way or the other whether it was greater than 60 percent, the female
23 skew for

24 A I don't remember specifically the 60 percent. I do
25 remember discussing the percentages.

1 Q Sitting here today, so you know whether skews more
2 than 60 percent female?

3 A I don't know that number in my head, no.

4 Q Okay, and the same for . is also part of your
5 competitive set, right?

6 A They were at the time, yes.

7 Q And sitting here today, you don't know what the female
8 skew for was at the time of 2010, 2011, correct?

9 A I don't know the exact number.

10 Q You didn't know one way or the other whether it was over
11 60 percent at the time of your deposition did you?

12 A I recall I didn't have any exact numbers in my head at
13 the time for any of the networks.

14 Q Sitting here today, do you know one way or the other
15 whether female skew was 60 percent or greater in 2010 or
16 2011?

17 A I'm sorry, sitting here today?

18 Q Yeah.

19 A Could you ask it again?

20 Q female skew in 2010 and 2011, do you know whether
21 it was greater than 60 percent?

22 A I now do sitting here today, yes.

23 Q At the time of your deposition you didn't know that, did
24 you?

25 A That's correct.

1 Q So that's something that you've learned since then?

2 A It's something that I've learned since then from the data
3 that I've looked at since then. That's correct.

4 Q What caused you to look at that data since then?

5 A I look at the data of our competitive set on a regular
6 basis. I don't necessarily commit it to memory. But certainly as
7 preparation for this, I then - as part of my job and preparation
8 for this, we looked at those numbers.

9 Q In preparation for your testimony?

10 A Correct.

11 Q That's not part of your ordinary job.

12 A No, I'm saying it's part of my ordinary job, but I don't
13 - I can't memorize the numbers. When I'm asked to quote an exact
14 number, I don't know an exact number.

15 Q Well, let's be fair. It wasn't just that you couldn't
16 quote a precise number, was it?

17 MR. GORDON: When?

18 MS. DOREE: I don't know what you're -

19 BY MR. SPERLING:

20 Q At the time of your deposition, it's not just that you
21 couldn't state a precise female skew for or , it's that
22 you didn't know one way or the other whether their female skew was
23 60 percent or greater, isn't that right?

24 A I don't recall exactly what I said in my deposition. I'd
25 need to see it.

1 MR. SPERLING: I'd be happy to show it to you. Your
2 Honor, can I approach the witness?

3 JUDGE SIPPEL: You certainly may.

4 MR. SPERLING: Thank you.

5 MS. DOREE: Thank you.

6 MR. GORDON: I have a copy.

7 MR. SPERLING: Ms. Doree, I've placed in front of you
8 what's been marked as GSN Exhibit 407.

9 (Whereupon, the above-referred to document was marked as
10 GSN Exhibit 407 for identification.)

11 JUDGE SIPPEL: Is that in evidence?

12 MR. SPERLING: It is not in evidence, Your Honor, and I'm
13 not sure we'll need to admit it. Right now, I'd just like to use
14 it to refresh the witness's recollection.

15 JUDGE SIPPEL: Good enough.

16 BY MR. SPERLING:

17 Q Ms. Doree, do you recognize this, or are you able to see
18 that it's a transcript of the deposition that you sat for on
19 December 18, 2012?

20 A Yes, that looks right.

21 MR. SPERLING: Let me ask you to turn to Page 53 of the
22 transcript.

23 JUDGE SIPPEL: What page of the transcript?

24 MR. SPERLING: Page 53, Your Honor.

25 JUDGE SIPPEL: Okay.

1 BY MR. SPERLING:

2 Q Ms. Doree, are you there?

3 A Yes, I am.

4 Q Do you see at Line 7 you are asked, "Do you know what the
5 percentage of female viewers is for Answer, "Not as I sit
6 here today." Question, "Is it higher than 60 percent?" Answer, "I
7 don't know as I sit here today." Question, "Is it higher than 70
8 percent?" Answer, "I don't know as I sit here today." Do you see
9 that passage?

10 A Yes, I do.

11 MR. SPERLING: Does this refresh your recollection that
12 at the time of your deposition you couldn't say one way or the
13 other whether skewed 60 percent or more female?

14 MR. GORDON: Your Honor, before the witness answers, as
15 Mr. Schmidt did on my cross with Mr. Brooks, I would ask that
16 Counsel also read the passages on page - starting on Page 57 Line
17 24 through 58 Line 9, so the witness has the full context of the
18 whole series of questions and answers.

19 MR. SPERLING: Your Honor, I'd prefer if he'd not prevent
20 the witness from answering the question yes or no before he points
21 her to other passages in the deposition.

22 MR. GORDON: Well, Your Honor -

23 JUDGE SIPPEL: Did he do the same thing for you?

24 MR. GORDON: Mr. Schmidt asked me because he wanted to
25 give Your Honor a full picture of the whole Q&A. I agree the

1 witness said what was just read, but later on in the deposition, 57
2 Line 21, she's asked about , , and again, and
3 the witness says, "70 percent female," is her perception. So I
4 just think Your Honor should have the full picture. That's what we
5 did with Mr. Brooks. I don't know why we wouldn't do it here.

6 JUDGE SIPPEL: Why don't we -

7 MR. SCHMIDT: I think with Mr. Brooks we read the
8 immediately preceding question. I'm not disagreeing with the
9 proposition that it is sometimes important to put the quote in
10 context, but we needn't go several pages later to pull out a
11 different quote in the deposition so Your Honor has what happened.

12 JUDGE SIPPEL: Well, let's do it. Start with Line 21 on
13 Page 52, and read it down to where you want to ask the question.

14 MR. SPERLING: Thank you, Your Honor.

15 BY MR. SPERLING:

16 Q So Line 21 Page 52 is actually an answer on
17 You're answering the question whether other
18 networks are in this category. Do you see that, Ms. Doree?

19 A Yes.

20 Q And those are networks that you viewed as being in your
21 competitive set?

22 A Yes.

23 MR. SPERLING: Do you see that?

24 JUDGE SIPPEL: and right?

25 MS. DOREE: Yes.

1 BY MR. SPERLING:

2 Q And then there's a question. "This category of networks
3 also tracks, I think you noted, a high percentage of female
4 viewers, correct?" Answer, "That's my understanding, yes."
5 Question, "What did you mean when you wrote 'high percentage' with
6 respect to 3c?" Answer, "I did not have a specific number in my
7 head."

8 Question, "Let's start with . Do you know what the
9 percentage of female viewers is for Answer, "Not as I sit
10 here today." Question, "Is it higher than 60 percent?" Answer, "I
11 don't know as I sit here today." Question, "Is it higher than 70
12 percent?" Answer, "I don't know as I sit here today."

13 Does this passage refresh your recollection that at the
14 time of your deposition you couldn't say with respect to
15 whether it had a female skew of 60 percent or greater or not?

16 A This passage?

17 Q Yes.

18 A I agree that I did not give a precise number or that I
19 did not know sitting here at that moment.

20 Q You didn't know whether it skewed 60 percent or greater
21 or not, correct?

22 A Based on this passage, yes, I agree.

23 MR. GORDON: And now, Your Honor, can we, so that Your
24 Honor has the full context, put the testimony that I have where she
25 says 70 percent, or do you want me to do that on redirect, Your

1 Honor?

2 MR. SPERLING: I think, Your Honor, customarily, the
3 Counsel that's presenting the witness gets to do redirect rather
4 than pose their questions in the middle of the cross.

5 JUDGE SIPPEL: That's true. We'll wait until redirect.

6 BY MR. SPERLING:

7 Q Ms. Doree, if you stay on that page, do you see it says,
8 "What about

9 A Yes.

10 MR. SPERLING: Line 14, and you answer, "I don't know as
11 I sit here today." Question, "60 percent, do you know if it's
12 higher?" Answer, "I don't know." Does that passage refresh your
13 recollection that at the time of your deposition you didn't know
14 one way or the other whether skewed 60 percent or more female
15 or not?

16 MR. GORDON: I'll object to that, Your Honor. That is a
17 prior - that is an improper use of the - if he's going to say, "at
18 the time of the deposition," then I insist the witness be allowed
19 to look at the passages I presented. If he's talking about at this
20 particular moment of time in the deposition like he did before,
21 that's fine, but it is -

22 JUDGE SIPPEL: Is all this really necessary?

23 MR. SPERLING: I don't think it is, Your Honor, and it
24 sounds like it's the exact same objection that you just ruled on.

25 MR. GORDON: Different question, but you know what? I'll

1 let it go.

2 JUDGE SIPPPEL: It doesn't seem to be - this does not seem
3 to be world shattering stuff.

4 MR. GORDON: I agree, I just think it's unfair to -

5 JUDGE SIPPPEL: Well, I'm not asking for an agreement.

6 I'm just - that's my observation. Go ahead. Let's continue.

7 MR. SPERLING: Sure, thank you, Your Honor.

8 BY MR. SPERLING:

9 Q Ms. Doree, in your written direct testimony, you identify
10 certain networks as being what you characterize as the reach set.
11 Do you remember that?

12 A Yes. May I refer to that?

13 Q You absolutely may.

14 A Okay. Where would I look?

15 MR. SPERLING: If you look in your written direct
16 testimony which Mr. Gordon put in front of you at the very
17 beginning of your testimony today, it's on Page 11.

18 JUDGE SIPPPEL: First document in there.

19 BY MR. SPERLING:

20 Q And if you look in Paragraph 24 -

21 A Yes, I see that.

22 Q Do you see that it says, "WE tv considered the other
23 networks in this group, and , to be in its
24 'reach set' because those networks had a number of characteristics
25 that WE tv wanted to emulate?"

1 A Yes.

2 Q So is the idea there that these were networks that were
3 viewed as competitors but - principally because you wanted to
4 emulate certain things that they had, that you didn't yet have?

5 A There were some similarities and some things we wanted to
6 emulate, both.

7 Q And you viewed them as part of your reach competitive set
8 because they were reaching the viewers that you wanted to target in
9 the ways that you might want to reach them?

10 A No, not exactly. I wouldn't define it that way.

11 Q Well, they were part of your reach competitive set
12 because they were reaching viewers that you also wanted to target,
13 right?

14 A No, not entirely. It's not a yes or no answer. Would
15 you like me to explain?

16 Q No, I wouldn't actually.

17 A Okay.

18 Q I would like, if we could get it, just an answer to the
19 question. You viewed them as part of your competitive set, right?

20 A That's correct.

21 Q And you subdivided your competitive set into a narrower
22 group in the broader reach set, correct?

23 A That's correct.

24 Q And the reach set consisted of networks that you weren't
25 exactly like, but you wanted to emulate some things that they had,

1 right?

2 A Yes.

3 Q And you wanted to do that because you wanted to reach the
4 same demographic that they were also reaching via the things that
5 you wanted to emulate, right?

6 A Reaching - again, I apologize, but it's not a yes or no
7 answer. It's one element. Reaching - yes, we wanted to reach, but
8 that was our - we were - that was not why we called them the reach
9 set. We were reaching to be like them in programming for the most
10 part in an audience profile.

11 Q And right now - at the time you were describing this,
12 your programming wasn't yet the same as theirs, correct?

13 A There were - some was similar, some was different. There
14 are a lot of differences, so that's correct.

15 Q And you wanted to emulate some aspects of their
16 programming in order to reach the target demographic that they were
17 also reaching?

18 A Yes, yes.

19 JUDGE SIPPEL: What are we talking about,

20 MR. SPERLING: No, Your Honor, she refers to

21 and

22 JUDGE SIPPEL: Thank you.

23 BY MR. SPERLING:

24 Q It's important, isn't it, for a network to be able to
25 differentiate itself somewhat from its competitors?

1 A Yes.

2 Q It's not good for a network if it's viewed as being
3 identical to another network that's already providing the same
4 thing, whether viewers or advertisers, right?

5 A Actually generally, that is true.

6 MR. SPERLING: Let me ask you to turn to the very back of
7 your binder please, Ms. Doree, the second to the last tab, GSN
8 Exhibit 410.

9 (Whereupon, the above-referred to document was marked as
10 GSN Exhibit 410 for identification.)

11 MS. DOREE: Okay.

12 MR. COHEN: Yeah, I think we should close for this.

13 MR. SPERLING: We're happy to, if you think we need to.
14 I'm not sure there's any data in here, but it's up to you, Mr.
15 Cohen.

16 MR. COHEN: I think we understand the network would view
17 this as a highly confidential document.

18 MR. SPERLING: Okay, let's close the courtroom, and we'll
19 ask Mr. Feldman to leave for a moment.

20 (OPEN SESSION ENDS)

21 (CLOSED SESSION BEGINS)

22 BY MR. SPERLING:

23 Q Ms. Doree, do you have GSN Exhibit 410 in front of you?

24 A Yes, I do.

25 Q And you see that that says on the front page at the top,

1 "WE tv 2015 vision and strategy?"

2 A Yes.

3 Q And it was completed March 1, 2012?

4 A Right.

5 Q If you turn to the second page, do you see there's a
6 table up at the top that describes opportunities on the left side
7 and threats on the right?

8 A Yes.

9 Q And the first threat that it identifies is that

10

11 A Yes.

12 Q And do you see that the one, two, three, four, fifth
13 bullet says,

14 A Yes.

15 Q Do you see that?

16 A I see that.

17 Q To your understanding, did this accurately reflect WE
18 tv's view that there was value in

19

20 A Yes.

21 Q Okay.

22 A

23

24

25 Q You testified in response to one of Mr. Gordon's question

1 that one of the things that makes a network a women's network is
2 that it targets women 18 to 49 and women 25 to 54. It's not your
3 view, is it, that if a network exclusively targeted and reached
4 women 25 to 54, that demographic, and not the women 18 to 49
5 demographic, that it wouldn't be a women's network, is it?

6 A I'm sorry, I'm trying to understand the whole question.
7 Would you ask it again?

8 Q Sure. A network that targets women 25 to 54 delivers
9 huge numbers of women 25 to 54, that skews incredibly female in
10 that demographic of women 25 to 54, but doesn't deliver well in the
11 18 to 49, doesn't target 18 to 49, that network is still a women's
12 network, isn't it?

13 A You're talking about specifically targeting and
14 attracting?

15 Q Yes.

16 A It's not just the targeting and attracting that would
17 define a women's network as I define it, so I'm not -

18 Q Let me try it this way.

19 A Sure, yeah, do you mind? I'm sorry. Try it one more
20 time so I understand.

21 Q If a network does everything that's involved in being a
22 women's network -

23 A Okay.

24 Q - except that it's focused on women 25 to 54 rather than
25 women 18 to 49, it's still a women's network, right?

1 A I see. So if it is - does everything as a women's
2 network does as I define it? Is that what the hypothetical is?

3 Q Except that it targets women 25 to 54 instead of 18 to
4 49, it's still a women's network, right?

5 A As I - as a women's network - as I define a women's
6 network, yes.

7 Q Sure.

8 A Yes. I see. I understand.

9 Q It doesn't have to target women 18 to 49 in order to be
10 a women's network, right?

11 A That is correct.

12 Q You testified early about, I think, Kim Martin, you
13 mentioned her name?

14 A Yes.

15 Q What was her position at WE?

16 A She was the President and General Manager.

17 Q And she was second only to the CEO, correct?

18 A I believe she reported to the COO, and he reported to the
19 CEO. I'm sorry, you said second only to -

20 Q To the CEO.

21 A Does that mean there was one person in between them? I'm
22 sorry.

23 Q Ms. Doree, you tell me. How many people were between her
24 and the CEO?

25 A One.

1 Q Thank you.

2 A You're welcome.

3 Q Given her seniority at the company, she was knowledgeable
4 about the company's business and its programming?

5 A She was definitely knowledgeable about WE tv's. I'm not
6 sure about the entire business.

7 Q I'm asking only about WE tv.

8 A Oh, yes.

9 MR. SPERLING: Thank you. Let me ask you to turn please
10 - actually before we turn, Your Honor, the last exhibit we looked
11 at, GSN 410, I'd like to move into evidence.

12 JUDGE SIPPEL: Any objection? Any objection?

13 MR. GORDON: No objection, sorry. I thought it was
14 already in, Your Honor.

15 JUDGE SIPPEL: 410 is received into evidence.

16 (Whereupon, the above-referred to document was received
17 into evidence as GSN Exhibit 410.)

18 MR. SPERLING: Thank you, Your Honor.

19 MR. COHEN: Mr. Sperling, I think if you're moving in a
20 different direction, we could open the courtroom.

21 MR. SPERLING: Yes, agreed. Thank you, Mr. Cohen.

22 (CLOSED SESSION ENDS)

23 (OPEN SESSION BEGINS)

24 JUDGE SIPPEL: If you want to remove your jacket, you can
25 do that.

1 MS. DOREE: Oh, thank you, Your Honor, I'm very
2 comfortable though.

3 JUDGE SIPPEL: Okay.

4 MS. DOREE: Thank you.

5 BY MR. SPERLING:

6 Q Ms. Doree, can you turn please to GSN Exhibit 13, which
7 is the very first tab in your binder?

8 A Yes, I see that.

9 Q And you see that there is a series of slides and then
10 talking points beneath it?

11 A Yes.

12 Q And you see the talking point on the first page here
13 says, "Hi, I'm Kim Martin, President and General Manager of WE tv."
14 Do you see that?

15 A Yes.

16 Q Do you see that this is a presentation that was prepared
17 for her to give at a Rainbow meeting offsite in November of 2008?

18 A I just want to familiarize myself with it. Yes, this
19 appears to be slides intended to be presented at this November 2008
20 offsite.

21 Q Can I ask you please to turn to the page - it's numbered
22 in the document, four. It's got a Bates number at the bottom right
23 ending with the digits 589.

24 A Yes.

25 Q And do you see there the slide has a bar chart that

1 compares WE tv against four other networks? Do you see that?

2 A Yes, I do.

3 Q One of them is , and you identify in your
4 written direct as being part of your competitive set, correct?

5 A Correct.

6 Q And the next one is , and you've said a few times
7 today that is part of your competitive set, correct?

8 A That's correct.

9 Q The next one is , and do you
10 remember that you testified in response to one of Mr. Gordon's
11 questions that you also viewed as part of
12 your competitive set?

13 A That's correct.

14 Q And the fourth one there is GSN, right?

15 A I see the fourth one there and it says GSN, yes.

16 Q And the text underneath says, "In fact, this year along,"
17 perhaps it's supposed to say alone, "we've enjoyed greater growth
18 in women's viewing than any of our direct competitors year on
19 years." Do you see that?

20 A I do see that, yes.

21 Q This is a document in which Ms. Martin identifies GSN as
22 a key competitors to WE tv, isn't it?

23 A No, I don't - I don't know. I don't know what the intent
24 of this document was. I didn't draft it.

25 JUDGE SIPPEL: Did you read it?

1 MS. DOREE: Yes, sir, I've read it just now.

2 BY MR. SPERLING:

3 Q And you would agree that it characterizes GSN as one of
4 WE's direct competitors, doesn't it?

5 A No, I would not agree with that.

6 Q I just want to make sure - I'm not going to fence with
7 you about it. I just want to make sure that that's your sworn
8 testimony here on the record that you don't agree that this
9 document which refers to WE's direct competitors and lists four
10 networks, three of which you admit are part of your competitive
11 set, and the fourth of which is GSN, doesn't actually identify GSN
12 as a direct competitor to WE. Is that your sworn testimony?

13 A Yes, it is.

14 MR. SPERLING: Let me ask you to turn please to GSN
15 Exhibit 400.

16 (Whereupon, the above-referred to document was marked as
17 GSN Exhibit 400 for identification.)

18 JUDGE SIPPEL: Is that in evidence?

19 MR. SPERLING: This one is. 13 is, Your Honor.

20 JUDGE SIPPEL: And what's the next one you want to turn
21 to?

22 MR. SPERLING: GSN 400. So I apologize I have to flip
23 you all the way to the back. This one is not in evidence, Your
24 Honor. We'll ask the witness about it first and then we'll seek to
25 move it in.

1 JUDGE SIPPPEL: Just a minute, the tab escaped me. We're
2 actually not at Tab 400?

3 MR. SPERLING: That's the one.

4 JUDGE SIPPPEL: "Do we have a simply golden performance?"
5 Is that the heading?

6 MR. SPERLING: That's the one.

7 JUDGE SIPPPEL: Okay, ask your questions.

8 BY MR. SPERLING:

9 Q Ms. Doree, do you have that document in front of you?

10 A Yes.

11 Q And you see that above the tables it says, "competitive
12 fringe ranker, women 25 to 54, Monday to Friday, 5 p.m. to 7 p.m.?"

13 A Yes.

14 Q And then it seems to be comparing performance in the
15 second quarter of 2008 against the second quarter of 2009, is that
16 right?

17 A I don't believe I've seen this before, so I just want to
18 familiarize myself with it. Yes, that appears correct.

19 Q And in each of those two periods, it ranks networks based
20 on delivery of women 25 to 54 in the time period that's being
21 analyzed here, right?

22 A Yes, I believe that's what it's doing, yes.

23 Q Okay, and it doesn't list performance in terms of
24 delivery of women 25 to 54 for all networks on television, right?

25 A It appears to be top 20.

1 Q And Game Show Network and WE are both identified as being
2 in the top 20 in both of those periods, correct?

3 A Yes. I'm sorry - yes.

4 Q And in the second quarter of 2008, Game Show Network was
5 actually delivering more women 25 to 54 in the period that's being
6 analyzed here than WE tv was, correct?

7 A Yes.

8 Q And in the second quarter of 2009, WE tv had moved ahead,
9 but they were only four places apart, right?

10 A Yes.

11 Q And WE tv was tracking that performance of itself and
12 Game Show Network on this slide, correct?

13 A It was tracking WE tv, and Game Show, and these other 18
14 networks. That is correct.

15 Q Okay, now in your written direct testimony on Page 14 of
16 Paragraph 32, you say that based on your exposure to GSN and
17 industry knowledge, "I consider GSN to be very different."

18 A I'm sorry, can you show me where you're reading?

19 Q Yeah, I'm on Page 14 of your written direct testimony.
20 Do you got it?

21 A I do have that page.

22 Q Paragraph 32.

23 A Okay.

24 Q And there's a sentence that says, "Based on my exposure
25 to GSN."

1 A Okay, I see it.

2 Q "And in industry knowledge, I consider GSN to be very
3 different." And you see that, right?

4 A Yes, I do.

5 Q Now, up to and through the time when Cablevision
6 repositioned GSN to the Cablevision sports tier, you'd never seen
7 any GSN marketing materials, have you?

8 A None that I can recall.

9 Q You'd never seen any GSN advertising materials, had you?

10 A Not that I can recall, no.

11 Q You didn't know anything about the ad sales demographics
12 that GSN was focused on, right?

13 A That's correct.

14 Q You'd never looked at a GSN programming schedule,
15 correct?

16 A None that I can recall.

17 Q And you couldn't recall being exposed to GSN's ratings
18 either, right?

19 A That is correct.

20 Q Before your deposition in this case, you also had never
21 seen any information about GSN's gender breakdown or skew, right?

22 A None that I can recall.

23 Q And at the time of your deposition, you couldn't recall
24 having seen any until your lawyer showed it to you to prepare you
25 for your deposition, right?

1 A I believe that's true. I'd have to - to 100 percent
2 confirm it, I'd have to see the deposition.

3 Q Well, why don't we do that?

4 A Okay.

5 Q I'd like to have your recollection 100 percent clear on
6 the record.

7 A Okay.

8 Q If you go back to your deposition transcript which is
9 marked for identification as GSN 407, and turn to Page 51?

10 A Okay.

11 Q Let me ask you to go please to Line 11. You see the
12 question, "Do you know anything about GSN's gender breakdown?"
13 Answer, "Not prior to this deposition prep for it." And then at
14 Line 19 you are asked, "Do you know if GSN attracts a majority of
15 female viewers?" Answer, "As we sit here today, only upon
16 information I know now, and now know," excuse me, "based on this
17 case, I have an idea. Prior to this, I don't know." Do you see
18 that?

19 A Yes.

20 Q Does that refresh your recollection that at the time of
21 your deposition you had no idea what GSN's gender skew was? I'm
22 actually going to ask you a better question.

23 A Okay.

24 Q Until the time you prepared for your deposition in this
25 case, you had no idea what GSN's gender skew was, correct?

1 A That's correct.

2 MR. SPERLING: Your Honor, before I move to my next set
3 of questions, we had asked the witness a couple of questions about
4 GSN Exhibit 400, and despite my promise to you, I failed to
5 actually move it into evidence, so we would so move it now.

6 JUDGE SIPPEL: And no objection?

7 MR. GORDON: No objection, Your Honor.

8 JUDGE SIPPEL: GSN Exhibit 400 is received into evidence.

9 (Whereupon, the above-referred to document was received
10 into evidence as GSN Exhibit 400.)

11 MR. SPERLING: And Your Honor, I'm happy to keep going
12 for a little bit. I could also probably streamline things if I
13 took a short break. And so therefore, I wonder whether now is a
14 good time to break for lunch?

15 JUDGE SIPPEL: Any objection to that?

16 MR. GORDON: No.

17 JUDGE SIPPEL: If you could streamline.

18 MR. SPERLING: I thought you might like that, Your Honor.

19 JUDGE SIPPEL: That sounds really good.

20 MR. GORDON: If it's between target and delivery, Your
21 Honor, we have to measure it.

22 JUDGE SIPPEL: Let's go off the record.

23 (Whereupon, the proceedings went off the record at 12:15
24 p.m. and resumed at 1:32 p.m.)

25 JUDGE SIPPEL: Okay. We're back in session. The witness

1 is back on the stand. You're under oath, Ms. Doree.

2 MS. DOREE: Yes, I understand.

3 JUDGE SIPPEL: And counsel, you may proceed.

4 MR. SPERLING: Thank you, Your Honor. Ms. Doree, as
5 you'll recall before the lunch break, Mr. Gordon was concerned that
6 I was asking questions about a portion of your deposition at which
7 you couldn't -- during which you couldn't recall the female skew of
8 and , those two networks.

9 Do you remember that?

10 MS. DOREE: Yes, I do.

11 BY MR. SPERLING:

12 Q There was a point later on in your deposition where you
13 stated that your perception was that it's at least 70 percent
14 female, the skews for those networks, correct?

15 A I believe that's correct. Should I refer to the -- may
16 I refer to this?

17 Q Do you remember that that's what you testified to?

18 A I'd like to just refresh my memory.

19 Q Do you remember that that's what you testified to, that
20 that was your perception?

21 A That's my recall.

22 Q Thank you.

23 A That that's what I testified.

24 MR. GORDON: My condition is alleviated. Thank you, sir.

25 MR. SPERLING: So happy to hear it.

1 Ms. Doree, I'm going to ask you to turn please to Exhibit
2 GSN 275, which is in the big book in front of you.

3 JUDGE SIPPEL: The big book?

4 MR. SPERLING: Yes, Your Honor.

5 JUDGE SIPPEL: Okay. 275 of your book.

6 MR. SPERLING: Our book is the big book, I thought. No,
7 the other is even bigger.

8 Our book, Your Honor. So, on the cover it says Cross
9 Examination of Elizabeth T. Doree. I apologize that we inundated
10 you with materials, Your Honor but you have the right one in your
11 hand.

12 JUDGE SIPPEL: Well, yes. I sure do. I don't feel
13 inundated.

14 MR. SPERLING: That puts us at ease.

15 JUDGE SIPPEL: Well, yes, but I don't feel relieved
16 either.

17 (Laughter)

18 MR. SPERLING: Not that at ease I guess, Your Honor.

19 JUDGE SIPPEL: Okay. You streamlined -- are you all
20 streamlined now?

21 MR. SPERLING: We're going to do our best, Your Honor.

22 JUDGE SIPPEL: Okay.

23 MR. SPERLING: Ms. Doree, do you see GSN Exhibit 275?

24 MS. DOREE: Yes, I do.

25 BY MR. SPERLING:

1 Q And you see at the top, Kim Martin is forwarding an email
2 to you among others, correct?

3 A She's copying me and others, yes.

4 Q Okay. And the email that she's forwarding is from
5 Jennifer Robertson? Do you see that?

6 A Yes, I do.

7 Q And Ms. Robertson was a Senior Vice President at WE TV at
8 the time, right?

9 A Yes, of digital media and new business -- business
10 development.

11 Q And what she's talking about here is the fact that WE was
12 going to be launched on Time Warner in Manhattan. Time Warner
13 Cable System, right?

14 A I don't recall the document, so I just want to look it
15 over.

16 Q Well, let me ask you another question. I may be a little
17 bit more precise. Kim Martin in her email to you among others says
18 we'll need to

19

20

21 Does this refresh your memory that at this point in time,

22 WE

23

24 A I'm not -- it doesn't -- I don't believe it states in

25 here -- I don't believe this is for WE TV, no.

1 Q Who do you believe this concerns?

2 A Wedding Central.

3 Q Aha. And Wedding Central was a network that you were
4 involved with working with as well, right?

5 A That's correct.

6 Q Okay. And what's being discussed here is
7 Wedding Central?

8 A I believe that's correct.

9 Q And Ms. Robertson states that it's difficult to tie a
10 number directly to a Time Warner Manhattan launch, but
11 strategically this move would be incredibly beneficial on the ad
12 sales side. Do you see that?

13 A Yes, I do.

14 Q And the reason why -- excuse me one moment.

15 Ms. Doree, let me go back for a second. Wedding Central
16 was never on channel 21 on Time Warner, was it?

17 A I don't know.

18 Q WE TV was on channel 21 on Time Warner, isn't that
19 correct?

20 A I don't know.

21 Q Okay.

22 A I don't know.

23 Q I'm going to show you another document to refresh your
24 recollection, Ms. Doree. If you'll give me just a moment.

25 MR. COHEN: Your Honor, in the interest of streamlining,

1 are you going to show her a document that shows there was an

2

3

4 MR. SPERLING: Yes.

5 MR. SCHMIDT: Yes, Wedding Central on Time Warner on
6 channel 94,

7

8 MR. COHEN: I mean, just -- we'll take the representation
9 right, that the -- that -- because it's a document in evidence,
10 correct?

11 MR. SCHMIDT: That's my understanding, yes.

12 MR. SPERLING: Yes. 206 is in evidence.

13 MR. COHEN: We can move along.

14 MR. SCHMIDT: Appreciate that.

15 MR. SPERLING: Ms. Doree, there's a discussion here about
16 WE or Wedding Central getting
17 , correct?

18 JUDGE SIPPEL: Do you understand the question?

19 MS. DOREE: I'm confused a little about the
20 part of the question, what you mean.

21 MR. SPERLING: Do networks from time to time

22

23 MS. DOREE: I don't know enough about that. I don't
24 know.

25 BY MR. SPERLING:

1 Q You're not knowledgeable enough to testify about that one
2 way or the other, is that right?

3 A That's right. It's not my area.

4 Q You've never heard of

5

6 A I have heard it talked about.

7 Q You received this email, right?

8 A Yes. According to this, I did.

9 Q And this email talks about

10 , right?

11 A Yes, that's right.

12 Q You didn't believe that WE or Wedding Central was going

13 , did you?

14 A I don't know enough about the context of the email.

15 Q That's not my question.

16 A I don't know what

17 Q I didn't mean to cut you off. I apologize.

18 A Okay.

19 Q The email refers to a

20 . I just want to make sure I

21 understand this.

22 A Yes, I see that. Yes.

23 Q Okay. Do you understand that to mean something other

24 than there was a

25

1 A I understand that to be part of it. I don't know what
2 else would be part of that

3 Q You understand that

4

5

6 A Again, I don't know what was involved in addition to

7 . But I understand that what this says is that

8

9

10 Yes, I do understand that.

11 Q

12

13 A

14 Q

15

16

17 A

18

19 Q

20 A

21

22 Q So, again, I just want to make sure I understand your
23 testimony. Your testimony here under oath, is that you think it's
24 possible that

25

1

2 A No. I believe what I said was I don't know.

3 Q Do you think it's possible that that's what happened, Ms.
4 Doree? That's what you're telling the Court?

5 A I think it's possible, I'm sorry, that what happened?

6 Q You think it's possible that Rainbow or WE or Wedding
7 Central

8 A I don't know exactly

9 Q I'm asking you a yes or no question, Ms. Doree. Do you
10 think it is possible that Rainbow was

11

12

13 MR. GORDON: Objection, Your Honor. I think this is the
14 third time. I mean, she just doesn't know.

15 JUDGE SIPPEL: I will sustain. Let me ask you this. Do
16 you know anything about a channel placement?

17 MS. DOREE: I have some knowledge of it. It's not my
18 area of expertise.

19 JUDGE SIPPEL: I mean, I'll share that with you. I'm not
20 an expert either.

21 (Laughter)

22 JUDGE SIPPEL: But it seems to me that there's something
23 about having a channel placement, if you get your channel placed in
24 an area that will -- let's say like, MSNBC wants to get close to
25 CNN or vice versa.

1 They want to get so that when somebody switches, I gather
2 this is the reason, somebody switches, they don't have to go too
3 far up the line to get the competitor.

4 If a CNN viewer says I want to watch MSNBC, they've got
5 to go all the way up 100 channels to find it, that's not -- that's
6 okay, but it's not the best of all possible worlds.

7 MS. DOREE: Yes.

8 JUDGE SIPPEL: The best possible world is to be like
9 within five channels, maybe two or three.

10 MS. DOREE: Yes.

11 JUDGE SIPPEL: Does that make sense?

12 MS. DOREE: Yes. That's what I understand to be
13 neighborhooding. And which is --

14 JUDGE SIPPEL: All right, but hold it just a second
15 there. Is neighborhooding what we're asking about?

16 MR. SPERLING: Your Honor, all I'm asking about is
17 whether they were

18

19 JUDGE SIPPEL: She was having trouble answering the
20 question.

21 MR. SPERLING: She sure was.

22 JUDGE SIPPEL: And maybe she doesn't have the background.
23 I'm not going to suggest any answer. But you asked her three times
24 and you never got an answer.

25 MR. SPERLING: I agree, Your Honor, that I didn't get an

1 answer. I guess I'll leave it to the Court to assess the
2 credibility of somebody not knowing whether they were

3

4 JUDGE SIPPEL: Your statement. But is it neighborhooding
5 that you're asking about? Or are you --

6 MR. SPERLING: I can go on in the document, Your Honor.

7 JUDGE SIPPEL: All right.

8 MR. COHEN: Your Honor, can I just request, we should not
9 be having discussions about credibility of witnesses while the
10 witnesses are on the stand. It's just inappropriate. That's
11 disrespectful.

12 JUDGE SIPPEL: That's why I'm not going to comment on it.
13 Yes, I agree with Mr. Cohen. We're not going to talk about a
14 witness' credibility while the witness is on the stand.

15 In fact we don't talk behind their backs even. But,
16 you're okay, ma'am?

17 MS. DOREE: Yes.

18 JUDGE SIPPEL: Move onto another subject.

19 MR. SPERLING: Your Honor, can I continue with the
20 document?

21 JUDGE SIPPEL: You certainly may.

22 MR. SPERLING: Thank you.

23 JUDGE SIPPEL: Maybe you could approach it a different
24 way.

25 MR. SPERLING: I'm going to do my best, Your Honor.

1 It was for sure incredibly beneficial, as she says, for ad sales to
2 have that launch on Time Warner. Right?

3 A I see that she is -- she believes that this move would
4 benefit ad sales.

5 Q And she goes on to say, in sort of a bullet point list
6 beneath that, that one of the reasons why it would be beneficial on
7 the ad sale side is because it, quote, gets us fully distributed in
8 the number one ad market. Right?

9 A Yes.

10 Q And she goes on to say in the next bullet point, our
11 buyers can actually see us now. The visibility gives us huge
12 benefit. Right?

13 A I see that, yes.

14 Q You got this email, you didn't express any disagreement
15 with the views that are written here by Ms. Robertson, did you?

16 A I don't recall if I responded or not.

17 Q You don't have any recollection of disagreeing with it,
18 do you?

19 A I don't have any recollection of that, no.

20 Q And you don't have any recollection of Ms. Martin
21 disagreeing with it either, do you?

22 A No, I don't.

23 Q You don't have any recollection of anybody on this email
24 chain disagreeing with it, correct?

25 A No, I do not have a recollection of that.

1 Q Thank you.

2 JUDGE SIPPEL: The next streamlined Exhibit?

3 MR. SPERLING: Your Honor, the next one without even
4 turning to an Exhibit other than her written direct testimony,
5 how's that?

6 JUDGE SIPPEL: I didn't mean -- I didn't mean to do that.
7 That was unfair. I couldn't resist though.

8 (Laughter)

9 MR. SPERLING: Ms. Doree, let me ask you to turn please
10 to your written direct testimony. It's at the front of the binder
11 that Mr. Gordon gave you.

12 And turn please to page six. Do you have that in front
13 of you?

14 MS. DOREE: Yes, I do.

15 BY MR. SPERLING:

16 Q And across pages six and seven, in paragraphs 12 to 14,
17 you identify three types of women's programming that aired on WE
18 TV, correct?

19 A I just want to refresh myself with the paragraphs.

20 Q Well, let me walk you through it.

21 A Okay.

22 Q In the last sentence of paragraph 12, you say I discuss
23 below representative types of women's programming that aired on WE
24 TV during the relevant period.

25 A Yes.

1 Q Do you see that?

2 A Yes, I do.

3 Q And paragraph 13 refers to original reality women's
4 programming, right?

5 A Yes.

6 Q And paragraph 14 refers to reality wedding programming,
7 right?

8 A Yes.

9 Q And paragraph 15 discusses WE TV's acquired programming,
10 do you see that?

11 A Yes, I do.

12 Q Now, this morning in response to Mr. Gordon's questions,
13 you said that you divided your programming into four buckets. Do
14 you remember saying that?

15 A I remember saying that we had four buckets. I don't know
16 if we -- they weren't ours exclusively, the only programming we
17 aired.

18 Q So you had --

19 A Because we -- I'd say as we've talked about, we would
20 experiment with things like most popular.

21 Q So you had programming that was in the other buckets
22 beyond those four. Is that -- am I understanding you correctly?

23 A From time to time, we may have, yes.

24 Q Okay. The four buckets that you discussed this morning
25 are wedding docu-series was the first, right?

1 A Yes.

2 Q And the second was a documentary block?

3 A Yes.

4 Q And the third was acquired scripted programming?

5 A Right.

6 Q And the fourth was chick flicks as you called them,
7 right?

8 A Correct.

9 Q The first of those buckets, wedding docu-series, that
10 corresponds to reality wedding programming, in your written direct
11 testimony in paragraph 14, right?

12 A I just want to refresh my memory of this, what is
13 written. Yes, that's correct.

14 Q And then the other three buckets that you described this
15 morning, the documentary block, acquired scripted programming and
16 chick flicks, are all kinds of acquired programming, right?

17 A I'm sorry, no. That's not correct.

18 Q Which of those is not acquired programming?

19 A I believe you just said documentaries.

20 Q The documentary block?

21 A Yes. Those were primarily original programs.

22 Q WE Reveal, you mentioned this morning. That was original
23 programming?

24 A That was the name of the block.

25 Q Yes. And that included original programming?

1 A That's correct.

2 Q So, in your written direct testimony, you divided things
3 into three categories. And this morning you divided things into
4 four buckets, correct?

5 A Yes, that's correct.

6 Q And if I understood your testimony from a minute ago
7 correctly, you're saying that there are yet other buckets beyond
8 those that you described this morning, correct?

9 A There can be from time to time, yes.

10 Q These various descriptions, the three categories in your
11 written direct, or the four-plus buckets this morning, these are
12 your subjective categorizations, correct?

13 A These are categorizations created by me and my team to --
14 to divide them, yes.

15 Q And they are not industry standard categorizations, are
16 they?

17 A I don't believe they are.

18 Q Reality programming is a genre of programming. You agree
19 with that?

20 A I agree it's an umbrella genre under which subgenres
21 fall.

22 Q Okay. So it's a genre and then it has subgenres,
23 correct?

24 A That's what I believe.

25 Q Okay. Just a moment. WE TV carried a program called USA

1 Today's Weight Loss Challenge, right?

2 A Yes.

3 Q And that's a form of realty programming, correct?

4 A I'm trying to recall the series, excuse me. I believe
5 that was, yes, what we would call reality competition.

6 Q And WE also broadcasted a program called Skating's Next
7 Star, do you remember that?

8 A Yes, I do.

9 Q And that was also a reality program, right?

10 A Yes. That fell within reality.

11 Q Okay. As opposed to Skating's Next Star, Dancing with
12 the Stars is also reality programming, correct?

13 A Yes, that's correct.

14 Q And Dancing with the Stars aired on GSN, do you remember
15 that?

16 A I don't know.

17 Q Deal or --

18 A I may have been aware of that at the time. I don't
19 recall.

20 Q Okay. Deal or No Deal, that's reality programming,
21 right?

22 A Deal or No Deal is a game show.

23 Q Is it your testimony that Deal or No Deal was not a
24 reality program?

25 A Not as I define reality. I don't have occasion to -- I'm

1 not familiar with necessarily formalized definitions of genres. We
2 use this much as a colloquial, as shorthand.

3 Q So, genres are not formalized in terms of the
4 distinctions between them?

5 A I'm saying I don't have occasion to formally distinguish
6 between them necessarily. We focus on what we're airing and how we
7 categorize them.

8 Q So is it your testimony now that Deal or No Deal is not
9 a reality program?

10 A I -- it's my testimony that it's a game show. And I do
11 not consider game shows to be under the reality umbrella.

12 Q Okay. Let me ask you if you could take out again your
13 deposition transcript, which is marked as GSN Exhibit 407. And I
14 would ask you please to turn to page 134.

15 A Okay.

16 Q Do you see at line 19 you were asked at your deposition
17 would you characterize the Amazing Race as a reality TV show? And
18 you answered yes. Do you see that?

19 A Yes, I do.

20 Q And then the questions go on about various programs.
21 What about the Biggest Loser? Yes. American Idol? Yes. Turning
22 to page 135, Dancing with the Stars? Yes.

23 Line four, question, Deal or No Deal? Answer, yes.

24 A I see that.

25 Q And so you did testify at your deposition that Deal or No

1 Deal is realty programming, right?

2 A Yes, I did. I believe I misspoke after being asked a
3 series of questions where the answer was yes.

4 JUDGE SIPPEL: You're usually better off just answering
5 the question yes or no or I don't know or something like that. But
6 I leave that up to Mr. Sperling.

7 MR. SPERLING: Ms. Doree, you had the opportunity after
8 your deposition to execute an errata sheet and indicate if there
9 were any errors in the transcript, didn't you?

10 MS. DOREE: Yes.

11 BY MR. SPERLING:

12 Q You didn't identify this as an error that needed to be
13 changed, did you?

14 A My understanding was that I could change any actual typos
15 and that I couldn't actually change the transcription.

16 Q You said before that reality programming as a genre has
17 subgenres. And I think you referred to a couple of programs that
18 we just discussed as competition reality.

19 Is there also a subgenre in your view of wedding realty
20 programming?

21 A Yes. So, I use it so colloquially that I'm not sure it's
22 used beyond my network.

23 Q So you can't really say with any sort of concrete
24 definition what does or doesn't fall inside that category, is that
25 right?

1 A That's correct. I can tell you how I use it.

2 Q Wedding Central at one point considered airing the
3 Newlywed Game. Do you remember that?

4 A I remember it being on a list of documents of inventory
5 -- of program content. Of possible consideration.

6 Q Well, it was more than that, right? Isn't it the fact
7 that Wedding Central actually, in trying to persuade distributors
8 to carry it, told distributors that it was planning to show
9 episodes of the Newlywed Game on Wedding Central?

10 A That I don't recall.

11 Q If you could turn to my book, not the big book. GSN
12 Exhibit 76 please.

13 JUDGE SIPPEL: Let's see. What is it again?

14 MR. SPERLING: GSN 76, Your Honor.

15 JUDGE SIPPEL: All right. I have it.

16 MR. SPERLING: Okay. Ms. Doree, do you have that in
17 front of you?

18 MS. DOREE: Yes, I do.

19 BY MR. SPERLING:

20 Q Do you see that the subject line of the email at the top
21 on the first page says Re: Status of Time Warner Cable Regional
22 Pitch Deck?

23 A Yes.

24 Q And you understand that's a reference to trying to pitch
25 carriage to Time Warner Cable?

1 A Yes, that's what it appears to be.

2 Q And you see after the attachments line, the first
3 paragraph of the email says, please find attached the latest
4 revised Wedding Central affiliates pitch for your review and
5 feedback. Do you see that?

6 A Yes, I do.

7 Q Does that help you understand that this is -- the
8 attached document is to pitch carriage of Wedding Central?

9 A That is -- yes, this appears to be.

10 Q Let me ask you to turn please to the page with the Bates
11 Number ending in 335.

12 A Okay.

13 Q You see that that's the first page of the slide deck?

14 A I don't see the page number, but I'll assume it is.

15 Q There should be a stamp in the bottom right. And since
16 it's printed landscape, you sort of have to turn this sideways.

17 A I see it on the next page. I see it on 336, it says I
18 believe page one.

19 Q Right. And you see the page before that --

20 A Yes.

21 Q Is the cover slide for the deck?

22 A Yes, it is.

23 Q I just want to orient you. If you could turn please to
24 page eight of the deck, which has the Bates Number ending 343.

25 A Okay.

1 Q And do you see that, the talking points underneath the
2 slide say, and in 2011 Wedding Central will air new series and
3 specials that include the following titles. And the fifth item on
4 the list is the Newlywed Game.

5 A Yes, I do see that.

6 Q And the Newlywed Game appears in the slide itself as
7 well, correct?

8 A Yes.

9 Q And so, it's a fact isn't it, that Wedding Central was
10 not only considering the possibility of carrying the Newlywed Game,
11 but went so far as to hold itself out to cable operators as
12 planning to carry the network -- planning to carry the program on
13 its network?

14 A My understanding, we didn't -- none of these were
15 purchased programs. But I do see that it is included as
16 representative of types of programming that Wedding Central could
17 offer.

18 JUDGE SIPPEL: Let me -- after the Newlywed Game, what
19 does that say? There's something version?

20 MS. DOREE: '90s.

21 JUDGE SIPPEL: Is that what it says?

22 MS. DOREE: Yes. Referring to 1990s.

23 JUDGE SIPPEL: Is there different versions?

24 MS. DOREE: Yes. From my understanding of it.

25 MR. SPERLING: I just wanted to make sure I understood

1 your last answer, Ms. Doree. What this document shows, is that
2 Wedding Central was holding itself out to Time Warner as planning
3 to actually carry the Newlywed Game on the network, correct?

4 MS. DOREE: It appears to represent that it will carry
5 these shows, including the Newlywed Game.

6 BY MR. SPERLING:

7 Q I apologize, when you say it, I'm not sure what that
8 pronoun refers to?

9 A The slide. The slide appears to refer to all these
10 programs as shows that will be presented by -- would be presented
11 by Wedding Central. Although there were not agreements for any of
12 them.

13 Q Let me ask you to turn please to GSN Exhibit 25 in your
14 binder. Do you have that in front of you?

15 A Yes, I do.

16 Q This is a press release announcing WE TV's launch of Most
17 Popular, right?

18 A Yes.

19 Q And that's the game show that WE TV carried that you
20 testified about a little bit this morning?

21 A Yes.

22 Q And you said this morning that you didn't see the program
23 as being a good fit. Do you remember that?

24 A I remember questioning the fit.

25 Q And when you questioned the fit, that wasn't the view of

1 WE TV; that was your personal view, right?

2 A That's correct.

3 Q And in response to one of Judge Sippel's questions, you
4 talked about how many pitches you get and that sort of thing. A
5 network like WE TV receives thousands of pitches every year, right?

6 A That sounds right, yes.

7 Q Would you agree with me that at most, about one-tenth of
8 those make their way into development?

9 A I don't know an exact number, but that sounds reasonable.

10 Q It sounds right as well as reasonable?

11 A I'm sorry, did you say less than ten percent?

12 Q No more than ten percent of the pitches that you receive
13 make their way into development, right?

14 A Yes. I think that sounds right.

15 Q And then there are costs associated with development.

16 A That's correct.

17 Q And making -- the program making its way from pitch into
18 development doesn't guarantee that it's actually going to get
19 launched as a series, does it?

20 A No, it does not.

21 Q Sometimes before the series can be approved, it has to do
22 what's called a run-through, correct?

23 A I'm not familiar with that term.

24 Q You're not familiar with the term run-through in terms of
25 series development?

1 A Yes.

2 Q And you don't know whether Most Popular went through a
3 run-through or not, do you?

4 A No.

5 Q And then sometimes before a series is launched, the
6 network will first commission a pilot of the program, right?

7 A Yes. That's correct.

8 Q And that's an investment of somewhere in the neighborhood
9 of half a million dollars or more, right?

10 A That I don't know.

11 Q Do you know whether there was a pilot for Most Popular?

12 A I don't know.

13 Q Okay.

14 A I don't recall.

15 Q So we talked about the fact that one-tenth of the pitches
16 that you receive at most make their way into development. Is it
17 also fair to say that no more than one-tenth of the programs that
18 make it into development ultimately get launched as a series?

19 A Are you speaking generally as an industry?

20 Q As to WE TV.

21 A At that time, I don't know -- I don't know what the
22 percentages would be.

23 Q Do you have any reason to believe that more than one-
24 tenth of the programs that WE TV approves for development
25 ultimately get launched as series?

1 A Yes. It could be higher than that number.

2 Q What's the number?

3 A I don't know an exact number. But I think it could be
4 higher.

5 Q It could be higher and it could not be higher, correct?

6 A Correct.

7 Q Launching a series is an investment of at least a couple
8 million dollars, correct?

9 A Could you explain what you mean by launching?

10 Q The cost to the network from the time it approves a pitch
11 for development until the time the series first airs on the network
12 is an investment of at least a few million dollars, correct?

13 A It would depend. I don't know that that's always the
14 case.

15 Q For an original program like Most Popular, do you have
16 any reason to disagree with the notion that the cost to WE TV from
17 approval of the pitch until launch of the series was at least a
18 couple million dollars?

19 A In that time period, I don't know whether a million
20 dollars would have been spent. I'm not really clear on the
21 question.

22 Q It costs the network money to launch an original program
23 like Most Popular, right?

24 A That's correct.

25 Q And that money is incurred at various stages over the

1 course of developing the program, right?

2 A That's correct.

3 Q And the most significant portion of that cost comes once
4 the network enters into a contract and actually commissions some
5 number of episodes of the series, correct?

6 A Usually, yes, that is correct.

7 Q My question is, from the first approval of the pitch for
8 development up through the amount of money that the network has to
9 pay for the episodes they're to deliver, that cost to the network
10 is typically at least a couple million dollars, right?

11 A I understand the question better. Usually a couple of
12 million. I don't know if a couple million is the norm. So, I
13 don't know.

14 Q Well it could be higher than that, right?

15 A It could be higher, yes.

16 Q You identified in response to the Judge's question this
17 morning, various senior officers of WE that would have been
18 involved in approving the launch of Most Popular, right?

19 A Yes.

20 Q I just want to be clear, it's not your testimony is it,
21 that all that money was spent and all those people approved Most
22 Popular to launch on WE TV even though they didn't see it as a good
23 fit?

24 A No, that's not my testimony.

25 Q They invested that money in a program and they launched

1 it because they thought it was a good fit for the network, right?

2 A They spent that money hoping that it was a good fit for
3 the network.

4 Q And they believed that it would be, otherwise they
5 wouldn't have spent the money, right?

6 A No.

7 Q No, you disagree?

8 A I disagree that they believed that it would be. I just
9 -- I know they hoped it would be. Which I'm thinking is different.

10 Q And so your testimony is that WE TV invested this money
11 and various senior officers, Kim Martin and above, including the
12 CEO of the company approved the launch of the program, not
13 expecting that it would actually appeal to the network's target
14 demographic. That's your testimony?

15 A No. That's not my testimony.

16 Q Okay. They launched the program because they believed
17 that it likely would appeal to the target demographic, right?

18 A They believed it -- they hoped that it would appeal to
19 the demographic. That was the plan.

20 Q How many original programs does WE TV launch in a season?

21 A In a season? I don't understand.

22 Q In a year. How many original programs does WE TV launch?

23 A In that time period, well, I would say between 15 and 20.

24 Q I'm going to ask you to turn please to GSN Tab 13. GSN
25 Exhibit 13, rather.

1 JUDGE SIPPEL: That's right after your testimony.

2 MR. SPERLING: Ms. Doree, you remember testifying about
3 this document earlier today?

4 MS. DOREE: Yes.

5 BY MR. SPERLING:

6 Q And when I first asked you about it, you said you wanted
7 to take a chance to read the document. Do you remember that?

8 A I'm sorry, I don't recall if this is one of the documents
9 I asked to review, really.

10 Q You've seen this document before today, haven't you?

11 A To the best of my recall, in preparation as part of this
12 deposition I was shown this.

13 JUDGE SIPPEL: The deposition or your testimony today?

14 MS. DOREE: Prior to my testimony today, yes. This --
15 no, this is not the first time I've seen it.

16 MR. SPERLING: And to make sure the record is clear, you
17 saw it in preparation for your testimony today, correct?

18 MS. DOREE: I saw it at my deposition is the first time
19 I saw it, so.

20 MR. SPERLING: And you referred to preparation, so you've
21 seen it in preparation for testimony since your deposition? Is
22 that right?

23 MR. GORDON: Your Honor, I'm just going to object there.
24 I don't think we're getting into what we showed witnesses in
25 preparation for testimony or since. And I would object.

1 MR. SPERLING: Your Honor, I certainly don't --

2 JUDGE SIPPEL: That's a very essential part of cross
3 examination. He wants to know what she saw before she took the
4 stand.

5 MR. GORDON: And I believe --

6 JUDGE SIPPEL: He's not asking of her lawyer-client
7 privilege stuff.

8 MR. GORDON: Well, I believe she's answered she saw it
9 before. And I don't know if he has to get into what we talked
10 about in preparation.

11 JUDGE SIPPEL: Well, it's his cross examination. It's
12 his witness.

13 MR. GORDON: Okay.

14 MR. SPERLING: Your Honor, to be clear, we certainly
15 don't mean to invade the privilege. The witness is the one who
16 volunteered that she saw it in preparation for testimony.

17 I'm just trying to clarify whether it was in preparation
18 for today's testimony or some other time so we know what time
19 period we're talking about.

20 Ms. Doree, did you see GSN Exhibit 13 as part of your
21 preparation for your testimony today?

22 MS. DOREE: Yes. I was asked to review my transcript
23 from my deposition, which included this as an exhibit.

24 BY MR. SPERLING:

25 Q And you reviewed the exhibit itself as well, is that

1 right?

2 A Yes.

3 Q Thank you. Ms. Doree, you mentioned earlier this block
4 of programming, WE Reveal. Do you remember that?

5 A Yes.

6 Q And that block of programming included programs like
7 20/20, the news show, right?

8 A Yes.

9 Q And it also included the news show 48 Hours, right?

10 A Did you say the news show?

11 Q Well, it included the program 48 Hours?

12 A Yes.

13 Q Is that a news program?

14 A Yes.

15 Q And those programs, 20/20 and 48 Hours, they didn't fit
16 into the WE brand statement, every kind of family, all kinds of
17 drama, did they?

18 A I believe they did.

19 Q Let me ask you if we can go back to your deposition,
20 please, GSN Exhibit 407.

21 JUDGE SIPPEL: What is 20/20? You got 48 Hours as a news
22 program. What's 20/20?

23 MS. DOREE: They are both what's called news magazine
24 format. Very similar.

25 JUDGE SIPPEL: Thank you.

1 MS. DOREE: But WE did our own version of them with a
2 female spin. I'm sorry, did you cite a page?

3 MR. SPERLING: I was about to. Just before we go there,
4 20/20's about like 60 Minutes, is that right?

5 MS. DOREE: It's the same format as 60 Minutes, news
6 magazine, yes.

7 MR. SPERLING: If you -- in your deposition, if you could
8 turn please to page 126.

9 MS. DOREE: Okay.

10 MR. SPERLING: Your Honor, it's marked GSN 407, page 126.

11 JUDGE SIPPEL: I have it.

12 MR. SPERLING: At the bottom, line 24, Ms. Doree, you
13 were asked, would you contend that 20/20 fits the every kind of
14 family, all kinds of drama brand? Do you see that?

15 MS. DOREE: Yes, I do.

16 BY MR. SPERLING:

17 Q And your answer was, no, I would not. Correct?

18 A I see that, yes.

19 Q Now the fact that WE TV was broadcasting programs like
20 20/20 and 48 Hours that didn't fit the brand didn't mean that WE TV
21 wasn't targeting women, right?

22 A That's correct.

23 Q And WE TV at times aired a lot of 20/20 and 48 Hours,
24 didn't it?

25 A My recall at the time is we aired it, we had one night a

1 week that was WE Reveal and 20/20 was on that -- in that block
2 sometimes, depending on the time of year.

3 Q And you had in 2009 one night a week where 20/20 was your
4 entire program from 6:00 p.m. until the early hours of the morning,
5 correct?

6 A I'm sorry, ask the question again, please?

7 Q In 2009, for part of the year, WE TV actually ran a solid
8 block of 20/20 from 6:00 p.m. until the early hours of the morning.

9 A Yes, that would be correct.

10 Q Okay. Now, I just need to find the Exhibit that Mr.
11 Gordon showed you. If you turn to Tab One in the binder that Mr.
12 Gordon gave you. And if you turn to page 206, please.

13 A On Exhibit 131?

14 Q That's correct.

15 A Okay.

16 Q Cablevision Exhibit 131, page two of six. And this is
17 the earliest of the programming calendars or schedules that Mr.
18 Gordon showed you, right?

19 A Yes.

20 Q And this one is from or as of October 20, 2009, correct?

21 A Correct.

22 Q And on Wednesday night from 8:00 p.m. to 11:00 p.m., WE
23 TV was showing 60 Minutes, correct?

24 A That's correct.

25 Q That's prime time, right?

1 A Yes.

2 Q And if we go to the next page, page three of six, which
3 is as of December 2009, WE TV on Wednesday night was showing 20/20
4 from 8:00 p.m. until 1:00 in the morning, right?

5 A That's correct.

6 Q That's also prime time, correct?

7 A Yes.

8 Q And then again on Thursday nights, WE TV was showing 48
9 Hours from 8:00 p.m. until 10:00 p.m., correct?

10 A Yes.

11 Q That's also prime time, right?

12 A Yes.

13 MR. SPERLING: Your Honor, may I approach the witness?

14 JUDGE SIPPEL: You may.

15 MR. SPERLING: Ms. Doree, I'm going to hand you what's
16 been marked as GSN Exhibit 412. Here you go, Your Honor.

17 (Whereupon, the above-referred to document was marked as
18 GSN Exhibit No. 412 for identification.)

19 MR. GORDON: Thank you.

20 MR. SPERLING: Ms. Doree, this document is in the same
21 format as the ones that are collected at Cablevision Exhibit 131,
22 right?

23 MS. DOREE: Yes, with the exception of some oddity there
24 on the right-hand side, that right-hand column beyond the time.

25 BY MR. SPERLING:

1 Q Yes, it appears to do with how the document was formatted
2 for printing, right?

3 A I believe it reflects a draft.

4 JUDGE SIPPEL: What about FBI files, that group?

5 THE WITNESS: Yes, Your Honor.

6 BY MR. SPERLING:

7 Q Can you look -- and this says, "WE tv January 2009
8 calendar as of 1/23/09." See that?

9 A Yes.

10 Q And does this reflect the actual programming lineup as of
11 January 23rd, 2009?

12 A I don't recall the exact lineup.

13 Q Okay. In this document the Wednesday night lineup on WE
14 tv from 6:00 p.m. until 1:00 in the morning was all 20/20, correct?

15 A Yes.

16 Q And on Friday night the lineup from 6:00 p.m. until 10:00
17 was all 48 Hours, correct?

18 A Correct.

19 Q The fact that WE tv had these blocks of programming that
20 weren't consistent with the brand doesn't mean that WE tv wasn't a
21 women's network targeting women 25 to 54, correct?

22 A That's correct.

23 MR. SPERLING: Your Honor, if you'll give me just a
24 moment, I'm going to make sure of my last item and we'll wrap up.

25 (Pause)

1 MR. SPERLING: Your Honor, we have nothing further.

2 JUDGE SIPPEL: Okay. Redirect?

3 MR. GORDON: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. GORDON:

6 Q I'd just like to start with where we just left off for E,
7 as we were talking about the WE Reveal block, right?

8 A Yes.

9 Q And you were shown some testimony here about the "every
10 kind of family, all kinds of drama" brand, correct?

11 A Yes.

12 Q Now, I believe earlier this morning you testified that WE
13 from time to time reviews and changes its brand, correct?

14 A Yes, that's correct.

15 Q And as a result of that brand review, WE will change its
16 brand tag line; for instance, "every kind of family, all kinds of
17 drama"?

18 A That's correct.

19 Q Okay. WE has never changed insofar as that it is always
20 targeting and trying to appeal and attract and deliver women who
21 are in the two demos that you identified, right?

22 A That's right.

23 Q Okay.

24 A It would be consistent.

25 Q And these brand tag lines are just the best way you think

1 that you can attract those viewers, right?

2 A That's correct.

3 Q And with regard to the news blocks 20/20 and 48 Hours, I
4 believe if you look on page 127 of your testimony, you can see you
5 explain why it didn't fall into this brand. And I want to ask you
6 a follow-up question. So you were asked, "Why not?" And you say,
7 "The nature of news telling -- story telling through journalistic
8 style -- is a distinctive type of programming and the stories we
9 told and the segments we chose for that series were in keeping with
10 an earlier programming block that we purchased the program for but
11 were no longer buying and making programs for program content." Do
12 see that?

13 A Yes.

14 Q There was a brand slogan before "every kind of family,
15 all kinds of drama," right?

16 A Yes.

17 Q And the WE Reveal block tied into that brand positioning,
18 right?

19 A Yes.

20 Q And the WE Reveal block tied into that brand positioning,
21 right?

22 A That's correct.

23 Q Can you explain why you thought that these programs,
24 20/20 and 48 Hours, were appropriate for WE in terms of trying to
25 target and deliver those two female demographics?

1 A Yes. One of the things we did was we did not air the
2 shows as they originally aired on the broadcast networks. We hand-
3 selected the segments and -- and basically compiled and edited our
4 own shows using segments that we found were particular female
5 appeal and interest and generally featuring women. We did that for
6 20/20, 48 Hours and 60 Minutes.

7 Q Okay. So they were quite consistent with the brand, were
8 they not?

9 A With the brand at the time, yes.

10 Q Yes. And then when you changed at some point to the
11 "every kind of family, all kinds of drama" brand, you decided that
12 that programming was no longer where you wanted to take the
13 network, right?

14 A That's correct.

15 Q And then you no longer put on the air?

16 A Yes. We may have aired it occasionally. We stopped
17 producing it and buying it.

18 MR. SPERLING: Your Honor, we're going to object. We've
19 been fairly liberal with leading questions on direct and redirect,
20 but at this point I think Mr. Gordon is testifying and asking the
21 witness to validate it.

22 JUDGE SIPPEL: Well, you're objecting because he's
23 leading the witness?

24 MR. SPERLING: Correct, Your Honor.

25 JUDGE SIPPEL: That's different. Yes, you are leading a

1 lot.

2 MR. GORDON: I understand, Your Honor, but just from my
3 vantage point, I watched a lot of their redirects and I think that
4 on redirect they had been leading quite a bit. I mean --

5 JUDGE SIPPEL: You didn't object.

6 MR. GORDON: What?

7 JUDGE SIPPEL: You didn't object.

8 MR. COHEN: Your Honor, I mean, we shouldn't have to have
9 these discussions. I had a discussion with Mr. Schmidt about this,
10 which he will recall, and we had an understanding there were -- and
11 the -- and to move things along, we would not object to leading on
12 redirect. So if I've misstated something, you can tell me, Mr.
13 Schmidt, and I don't think it's appropriate now. I let them lead.
14 If Your Honor goes back and looks at the transcripts of their
15 witnesses, they led consistently through direct and redirect. We
16 did it in the interest of time. I thought I had an understanding.
17 And now we're changing the rules.

18 MR. SPERLING: Your Honor, we don't mean to change the
19 rules, and that's why I began the objection the way that I did.

20 JUDGE SIPPEL: Let Mr. Schmidt answer.

21 MR. SCHMIDT: Sure. I think I know -- I was trying to
22 literally think of the conversation Mr. Cohen was talking about,
23 and I do remember being given a hard time for leading by Mr. Cohen
24 and disagreeing with the proposition that I was leading and Mr.
25 Cohen saying, "I'm just letting you do it." I don't think -- I'll

1 let Mr. Sperling speak for himself. I don't think his point was
2 we're going to object on every question on a leading basis because
3 I think if you did go through the transcript, there would be
4 leading on both sides. But I understood what Mr. Sperling to be
5 saying was just dial it back a little bit.

6 JUDGE SIPPEL: All right. What you did is -- this is
7 going too far, you think, I guess, is that it?

8 MR. SPERLING: That was the nature of the objection, Your
9 Honor, which is why I began by saying I think we can accommodate
10 some leading, but as Mr. Schmidt characterized it, we'd request
11 that counsel dial it back.

12 MR. GORDON: Your Honor, I'm going to move to a different
13 subject, but I --

14 JUDGE SIPPEL: You're fine, Mr. Gordon.

15 MR. GORDON: Okay.

16 JUDGE SIPPEL: I didn't realize there were these ground
17 rules.

18 MR. GORDON: Apparently they're changing, Your Honor, but
19 I mean, Mr. Brooks -- I think there was no difference in Mr.
20 Brooks' redirect than what you're seeing now, but I will move on,
21 and I will try to dial it back.

22 JUDGE SIPPEL: I'm not trying to belabor it.

23 MR. GORDON: Yes.

24 JUDGE SIPPEL: But that was the reason of my ruling.

25 MR. SCHMIDT: And just to be clear; I do want to be

1 clear, we don't want to belabor it either. I understand the
2 position you're saying. I don't agree with kind of your view, but
3 I know that was the view you had, and you didn't object, so we'd
4 ask you to just kind of be mindful of that. I don't think we're
5 going to be objecting, so please go ahead.

6 MR. COHEN: We appreciate that.

7 MR. GORDON: Thank you. Let's dial it back, Ms. Doree.

8 (Laughter)

9 BY MR. GORDON:

10 Q Let's turn to Exhibit 310 in the small binder.

11 JUDGE SIPPPEL: Small binder?

12 MR. GORDON: Yes. GSN 310, Your Honor, sort of midway.

13 THE WITNESS: Okay. I see it.

14 BY MR. GORDON:

15 Q Okay. And let me just wait for everybody to get there.

16 JUDGE SIPPPEL: GSN 310? Hold on just a second. Okay.

17 I have it.

18 BY MR. GORDON:

19 Q Okay. GSN 310, before I launch into it, could you just
20 explain to the Court what the difference is between targeting and
21 delivering your demographics?

22 A Absolutely. Targeting is what internally the executives
23 at the network would state is their desired goal. Success is when
24 you've stated that goal and you've actually achieved it.

25 Attracting the -- those viewers is how you know -- one way you know

1 that you achieved it. Your -- arguably your target audience --
2 whoever -- whatever demographics you're targeting should be the
3 demographics you're receiving, which would be your largest group of
4 demographics.

5 Q Okay. And was it important for you as a programmer to
6 know whether or not you were delivering your target as the largest
7 segment of your overall audience composition?

8 A Yes, it was critical to doing my -- my job right.

9 Q And why was that?

10 A Because it -- well, as a network mandate, we were in
11 agreement and our -- our goal was to laser focus on these demos of
12 women 18 to 49, 25-54. And if our -- our results came back
13 overwhelming that these were the demos we were attracting -- if
14 were not attracting these demos, then we were doing something very
15 wrong and we were not achieving our goal.

16 Q Okay. So let's talk about Bridezillas, which is the
17 subject of 310. What was your target demographic for Bridezillas?

18 A Would have been the same two demos of women 18 to 49 and
19 25-54.

20 Q Okay. Do you have any recollection of -- well, strike
21 that. Did you deliver those demographics?

22 A Yes.

23 Q Okay. And why don't you approximate, in the women 25 to
24 54, approximately how many women were you pulling into the
25 Bridezillas show?

1 A In the season that I estimate to be the sixth season of
2 the show, I would approximate we were pulling in 3 -- approximately
3 women 25-54.

4 Q Okay. How about women 18 to 49?

5 A That number should be a little bit higher or about the
6 same.

7 Q Okay. And do you have any sense for Bridezillas what
8 percentage of your audience fell into those two core demographics?

9 A Yes. I mean, they overlap each other, but women 25-54
10 would have been percent of the adults 25 to 54.

11 Q Okay. Now on cross you were shown the fact that there
12 were men 18 to 49 who were watching this show. Did WE have
13 any programming that specifically targeted men in that demographic?

14 A No.

15 Q Was it a concern to you that you were pulling in
16 men in that age group?

17 A No.

18 Q Can you explain why?

19 A Because at men and approximately women,
20 it still represented a relatively small percent. I'm going to
21 ballpark that maybe that's percent of the total adults in that
22 demo.

23 Q Was there any kind of trend where more men started
24 watching WE tv that gave you pause or concern?

25 A In this time period we -- no. I mean, we looked -- it

1 was more important to us to look at the overall of the network than
2 any particular episode on any, you know, given day. It was too
3 small. Data that could fluctuate too much.

4 Q And overall were you seeing women 25 to 54 and women 18
5 to 49 being your two largest blocks of demographics?

6 A Yes.

7 Q If you turn to the next document, 334 --

8 A Yes, sir.

9 Q -- and if I turn to the page, the second page of the
10 document, which has the 002 in the right-hand corner --

11 A Yes.

12 Q -- there is a chart and the first line of that chart is
13 "A25 to 54." That's adults, right?

14 A Yes.

15 Q And more adults watched than women? That's why it's
16 there first?

17 A Yes.

18 Q It has nothing to do with the relative importance of the
19 two?

20 A No, the adult number would always mathematically have to
21 be larger than the women number.

22 Q Okay. Which was the more important of the two?

23 A Women.

24 Q And here, women 25 to 54 is in the first symbols,
25 and adults are , is that correct?

1 A Yes.

2 Q Okay. So that means that, what, of your adult
3 audience, it's what percentage are women 25 to 54?

4 A That looks to be about . On that particular
5 week about of the adults were women.

6 Q Okay.

7 A If I'm doing my math right.

8 Q All right. And if you'd turn to 339. GSN --

9 JUDGE SIPPEL: You're going to another exhibit?

10 MR. GORDON: Yes, sir. Sorry. If you turn to --

11 JUDGE SIPPEL: Wait, wait.

12 MR. GORDON: Yes.

13 JUDGE SIPPEL: Before you go off of this one, what
14 percent of your overall audience would fall into the 55-plus
15 demographic? Fifty-five and above.

16 THE WITNESS: I don't know that percentage off the top of
17 my head, but it was significantly lower than these other two women
18 demos.

19 JUDGE SIPPEL: With the women demo, but what about the
20 people demo?

21 THE WITNESS: The people is the same as adult, Your
22 Honor.

23 JUDGE SIPPEL: Yes.

24 THE WITNESS: Yes.

25 JUDGE SIPPEL: Well, I'm saying what does your people

1 demo show for ages 25 to 54?

2 THE WITNESS: In that first week it shows .

3 JUDGE SIPPEL: Okay. So and then I'm asking about the
4 people demo for 55 and plus.

5 THE WITNESS: I -- and that's -- that's what I -- I don't
6 know the number, but it would be significantly lower than the
7 , I believe.

8 JUDGE SIPPEL: Significantly lower than

9 THE WITNESS: That's correct.

10 JUDGE SIPPEL: All right. What do you base that on?

11 THE WITNESS: I'm sorry. What?

12 JUDGE SIPPEL: What do you base your answer on?

13 THE WITNESS: What do I base --

14 JUDGE SIPPEL: Yes.

15 THE WITNESS: My years of looking at these numbers and
16 looking at the different demographics.

17 JUDGE SIPPEL: Does that demographic ever come to your
18 attention though? I mean, I'm not trying to trick you here, but
19 I'm saying in the course of your work, do you have occasion to look
20 at the 55-plus demo?

21 THE WITNESS: Yes, Your Honor. If -- if we -- often if
22 a show doesn't get a good delivery in the -- in these core demos
23 we're looking at --

24 JUDGE SIPPEL: Yes.

25 THE WITNESS: -- we'll go look outside them to see, in

1 essence, what we did wrong and who we're attracting. So we might
2 have got a little more young -- you know, I suppose you can get
3 some children watching.

4 JUDGE SIPPEL: Yes.

5 THE WITNESS: And that way we would look and see if it's
6 skewed too old.

7 BY MR. GORDON:

8 Q And just to follow up on the Judge's question, in your
9 experience at WE -- and I'm not looking for exact percentages, but
10 if you could give the Judge a rough sense -- how would your women
11 55-plus number compare to your women 25 to 54?

12 A I would have to ballpark it because I -- again, I only
13 look at those -- I -- I would study those numbers when it was -- if
14 it was brought to my attention that they were growing, but I would
15 imagine in this time period maybe half. Maybe half as large, or
16 less.

17 Q Okay.

18 JUDGE SIPPEL: Well, let's face it, in the overall scheme
19 of things, you're looking -- isn't that what they colloquially
20 refer to as "eyeballs"?

21 THE WITNESS: Yes, sir. Exactly what we call it.

22 JUDGE SIPPEL: And as long as you've got live eyeballs;
23 in other words, I mean people who can sit up and watch the
24 television --

25 THE WITNESS: Yes.

1 JUDGE SIPPPEL: -- you're interested in them because the
2 advertiser is going to be interested in them.

3 THE WITNESS: Well, only within the demographics that
4 we're primarily selling. So we can't monetize if we attract --
5 anybody we attract over 55 or under 18 we can't -- we don't
6 generally monetize. So that's -- if -- if we --

7 JUDGE SIPPPEL: Okay. I hear.

8 BY MR. GORDON:

9 Q So just to follow up on that, you from time to time
10 examine women who are 55 and older, correct?

11 A Yes.

12 Q And in a sense you're looking to see how they as a
13 demographic compare to the women 25 to 54, as I understand what you
14 just said.

15 A For our -- our programming?

16 Q Yes.

17 A Yes.

18 Q And could you just explain why you want to make sure that
19 that women 25 to 54 demographic is greater than that women 55 and
20 older, just so we're all clear?

21 A Yes. As a -- as a network we are basically promising
22 advertisers, and to some degrees affiliates, that we are reaching
23 more of those eyeballs of women 25-54 and 18 to 49 than any other
24 group, and that this is our -- our sweet spot.

25 JUDGE SIPPPEL: Of the early 40s, right?

1 THE WITNESS: Yes, the sweet spot actually is within that
2 -- that broader demographic break. So 25-54 and 18-49 is where we
3 wanted, in a perfect world, all our viewers to be. And then a
4 median age in there of was ideal.

5 BY MR. GORDON:

6 Q And if your audience had more women 55 and older as
7 compared to women 25 to 54, would that be a problem?

8 A Yes, it would indicate we're doing something wrong.

9 Q Okay. Let's turn, if you can, to GSN Exhibit 339.

10 A Okay.

11 Q And you were asked some questions on this. And this
12 document lists a number of your top 10 WE tv telecasts of the week.
13 Do you see that on page 2?

14 A Yes.

15 Q Okay. And the first one is the Braxtons?

16 A Yes.

17 Q And that was a relative hit for you?

18 A Yes, that was a big hit for us.

19 Q Okay. And this indicates that the Braxtons had --

20 JUDGE SIPPEL: What page are you on?

21 MR. GORDON: I'm sorry. Page 2.

22 JUDGE SIPPEL: Okay. I see it.

23 MR. GORDON: We're on 339, page 2.

24 BY MR. GORDON:

25 Q And it indicates the Braxtons had women 25 to 54?

1 A Yes.

2 Q As compared to an overall adult audience of

3 A Yes. In that same demo, yes.

4 Q Okay. And can you do the rough math for us as to what
5 that percentage is?

6 A (Laughter)

7 Q I don't want to lead.

8 A I like on-the-spot math.

9 JUDGE SIPPEL: You don't want to lead, or you don't know
10 the answer?

11 MR. GORDON: I don't know the answer either.

12 (Laughter)

13 THE WITNESS: He's leaving it to me to know the answer.
14 So I would say, without a calculator, that you're looking at about
15 percent female? Could be greater.

16 BY MR. GORDON:

17 Q And in your general experience --

18 A Please don't quote me.

19 Q No.

20 A Okay.

21 Q Okay. Let me move on to a different --

22 JUDGE SIPPEL: What do you mean don't quote you?

23 THE WITNESS: I mean don't quote me that my percentage
24 was accurate. I was doing it in my head.

25 JUDGE SIPPEL: Well, you're testifying. Your testimony

1 may appear.

2 THE WITNESS: Yes, and I approximated, Your Honor.

3 JUDGE SIPPEL: Okay.

4 THE WITNESS: That -- that you can quote me.

5 JUDGE SIPPEL: Well, I think you might get quoted both
6 ways.

7 (Laughter)

8 THE WITNESS: Okay.

9 JUDGE SIPPEL: No guarantees.

10 THE WITNESS: I understand.

11 JUDGE SIPPEL: Okay. Just so you understand. Now this
12 information is in December of 2013?

13 THE WITNESS: Yes.

14 JUDGE SIPPEL: Is that important to you, Mr. Gordon?

15 MR. GORDON: I was just going to ask a follow-up, which
16 is --

17 JUDGE SIPPEL: Oh, all right.

18 BY MR. GORDON:

19 Q -- in your general experience in the 2009-2011 period for
20 your top shows, was having that kind of a percentage over adults
21 for women 25 to 54 consistent?

22 A Yes, I would say our -- our percentages were -- female
23 were sometimes percent.

24 Q In that particular demographic?

25 A Yes. I'm sorry. In -- in 25 to 54 for women.

1 JUDGE SIPPPEL: Well, were you showing the Braxtons in
2 that time period?

3 THE WITNESS: No, Your Honor. Hadn't premiered yet.

4 JUDGE SIPPPEL: When did you launch?

5 THE WITNESS: The -- I believe it was April of 2011.

6 JUDGE SIPPPEL: April of 2011? Okay.

7 THE WITNESS: I believe that's right.

8 BY MR. GORDON:

9 Q You were asked some questions about your reach set.

10 A Yes.

11 Q Could you explain what your reach set is?

12 A Yes, it's -- it's a -- a group of networks who we are
13 "reaching" for to emulate certain aspects of, not all aspects
14 necessarily. And what I mean by that, first and foremost the
15 programming. So for example, has a show called

16 , and in any given season they can get 25-54
17 watching. That is far beyond any number that WE tv has yet to see,
18 and so that is something we would love to emulate.

19 did a good job of launching to the scripted
20 space, whereas most other networks in our competitive space hadn't
21 tried it or they tried and failed. So there were different aspects
22 of programming on different networks that we knew to be targeting
23 and attracting these women 25-54, and we wanted to see if we could
24 do the same.

25 Q Are you trying to emulate every aspect of these networks

1 that are in your reach set?

2 A No. No, it's in our minds more -- a little bit more of
3 a compilation, if we could build the perfect network.

4 Q Okay. Do some skew more male as opposed to female than
5 you would like WE to skew?

6 A Probably, yes. Yes.

7 Q All right. Let me ask you some questions about the
8 median age. And here you were asked some questions off Exhibit 285
9 about the median age. Exhibit 285, this is some data from 2014,
10 correct?

11 A Yes.

12 Q And you were asked I believe on page -- the third page of
13 the document, which has two bar graphs and below it a box that
14 talks about WE and key competitors prime time, quarter and season-
15 to-date.

16 A Yes.

17 Q See that?

18 A I see that.

19 Q And then you were asked some questions about median age,
20 and I want to focus on the lower half of the year-to-date. And I
21 think it was pointed out that at this moment in time in 2014 your
22 median age was

23 A That's correct.

24 Q And just to be clear, on the 2009-2011 period, what was
25 your median age?

1 A Approximately

2 Q Okay. And in terms of your competitive set there are
3 some numbers there. In the 2009-2011 period, did any of your
4 competitors have a median age that was in their -- well, let me ask
5 it differently. In the 2009 to 2011 period, did any of the members
6 of your competitive set, the networks you were monitoring or
7 tracking, have a median age that was in the 60s?

8 A No.

9 Q Did WE in that time period have a median age in the 60s?

10 A No.

11 Q Let me ask you to turn to GSN 400, please. Are you
12 there?

13 A Oh, I'm sorry. Yes.

14 Q I'm sorry.

15 A Yes.

16 Q And this is some data presented on -- it's called a
17 competitive fringe ranker. Do you see that?

18 A Yes.

19 JUDGE SIPPEL: This is about The Golden Girls, but, yes,
20 that's competitive fringe ranker.

21 MR. GORDON: Yes.

22 JUDGE SIPPEL: And that's R-A-N-K-E-R, not R-A-N-C-O-R.

23 (Laughter)

24 THE WITNESS: Yes.

25 MR. GORDON: We can give you some of that, too, Your

1 Honor.

2 THE WITNESS: Yes. Yes.

3 JUDGE SIPPEL: I'm getting enough of that.

4 (Laughter)

5 JUDGE SIPPEL: No, I take that back. We're doing fine.

6 BY MR. GORDON:

7 Q So what is this? What block of time is this document
8 looking at, so we're clear?

9 A This is looking at Mondays through Fridays from 5:00 p.m.
10 to 7:00 p.m.

11 Q Okay. And is that the fringe?

12 A Yes, that's referred to as the fringe daypart.

13 Q Okay. So this isn't total day or prime time, correct?

14 A Yes, that is correct.

15 Q And then it gives some ranks for various networks in
16 women 25 to 54. Do you see that?

17 A Yes.

18 Q Are all these members of your competitive set?

19 A No, they're not.

20 Q Are you tracking all of these networks daily?

21 A No, we do not track

22 Probably more than half the networks
23 on this list are not in our competitive set.

24 Q And a lot of them aren't even women's networks as you
25 define them, correct?

1 A That's correct.

2 Q If you turn to CV Exhibit 76 --

3 JUDGE SIPPEL: What book is that in?

4 MR. GORDON: I'm still in this small book.

5 MR. SPERLING: I'm sorry. What is the exhibit number?

6 MR. GORDON: CV --

7 JUDGE SIPPEL: CV.

8 MR. GORDON: Oh, I said CV. My apologies. GSN Exhibit
9 76 in the small book. I apologize to everybody.

10 JUDGE SIPPEL: Well, I have it.

11 BY MR. GORDON:

12 Q And this was the deck that you were walked through
13 regarding Wedding Central?

14 A Yes.

15 Q And you were asked some questions, but if you look at the
16 two in the CCs, you were not on this email exchange. You see that?

17 A Yes, I was not on -- I was not copied on this.

18 Q And if you look below the last sentence of that first
19 email -- Ms. Waltman, do you know who that is?

20 A Yes.

21 Q Who is Ms. Waltman?

22 A She -- she was the VP, vice president of our trade
23 marketing group. That's the piece of marketing that deals with the
24 advertising group.

25 Q Okay. She writes, "My goal is to distribute the final

1 deck to you by the end of this week." Do you see that?

2 A Yes.

3 Q So this was apparently a draft that you were being asked
4 about?

5 A Yes, that's what I would assume.

6 Q Okay. And whatever is contained in this draft with
7 respect to The Newlywed Game -- you did acquisitions, correct?

8 A That's right.

9 Q The Newlywed Game wasn't your original programming,
10 right?

11 A Correct.

12 Q That would have been something you would have had to have
13 acquired?

14 A Yes.

15 Q So you would be the person who would know?

16 A Yes.

17 Q And The Newlywed Game -- did you end up purchasing it to
18 air on the Wedding Channel?

19 A On Wedding Central? No.

20 Q I'm sorry. Wedding Central. Thank you. You were asked
21 some questions on cross about Most Popular.

22 A Yes.

23 Q And I take it there was a lot of discussion about whether
24 or not to air Most Popular?

25 A Whether or not to -- to produce it.

1 Q Right. Right.

2 A Once we knew we were making it, we did not debate airing
3 it.

4 Q Okay. My apologies. I got the lingo down. There was a
5 lot of discussion about whether to produce it?

6 A Yes.

7 Q And I take it you had some concerns about producing it?

8 A I had some concerns about airing it.

9 Q Okay. But at the end of the day, somebody thought
10 differently --

11 A Yes.

12 Q -- and decided that you would go forward?

13 A Yes, I had some concerns. It was my job to vocalize
14 whatever I saw the hurdles to be.

15 Q Okay. And you said that there were approximately 15 to
16 20 original programs in any given year?

17 A Yes.

18 Q So over the course of 14 years that's a big number,
19 right?

20 A Yes, the number did increase over the years. So in my --
21 -- early part of my 14 years it was less. Now it's more.

22 Q But there have been hundreds?

23 A Yes, there have been hundreds of seasons of shows.

24 Q Okay. And Most Popular was the only game show that you
25 aired?

1 A That's correct.

2 JUDGE SIPPEL: So let me ask you something about that.

3 THE WITNESS: Yes.

4 JUDGE SIPPEL: As I recall your testimony, you were going
5 back and forth with Mr. Sperling about whether there was belief
6 expressed that it might -- that it would succeed and there was hope
7 --

8 THE WITNESS: Yes.

9 JUDGE SIPPEL: -- that it would succeed. Now I was just
10 thinking of something. Kim Martin, she is the big boss, is that
11 right?

12 THE WITNESS: That's right.

13 JUDGE SIPPEL: If Mr. Doyle gave her a call and said --
14 this is hypothetical now -- and said, "Kim, what are you thoughts
15 about putting that show on the air," and she said to him, "Well, we
16 hope it's going to do something," wouldn't you want to know --
17 wouldn't he logically ask the question, "Well, Kim, what do you
18 believe"?

19 THE WITNESS: I assume you mean Mr. Dolan?

20 JUDGE SIPPEL: Hypothetically, yes.

21 THE WITNESS: Okay.

22 JUDGE SIPPEL: Or take anybody you want that's a senior
23 guy --

24 THE WITNESS: No, I -- I thought you used another name.

25 JUDGE SIPPEL: -- senior person.

1 THE WITNESS: Okay. Yes.

2 JUDGE SIPPEL: What other name do you think I used?

3 THE WITNESS: I heard Doyle. I thought that's what you
4 said. Sorry.

5 JUDGE SIPPEL: Well, maybe I did.

6 THE WITNESS: Okay.

7 (Laughter)

8 THE WITNESS: I assumed you meant Dolan. Yes, I believe
9 Kim would have explained it as an experiment to branch out to
10 something different than we'd done and see if would work, in that
11 sometimes those experiments can be enormous hits and you can start
12 making more of those same types of programs if they are. So it was
13 -- that's why I -- I stumbled a bit I think on those -- on the
14 words.

15 JUDGE SIPPEL: All right. That's your answer.

16 BY MR. GORDON:

17 Q But at the end of the day the experiment failed, I take
18 it?

19 A Yes.

20 Q Your audience of women 18 to 49 and 25 to 54 didn't
21 relate to the show?

22 A That's what the numbers indicated.

23 Q Okay.

24 A They did not watch it.

25 Q And now, separate and apart from game shows, you also air

1 reality-based competition, right?

2 A Yes.

3 Q And I think you were asked some questions about Dancing
4 With the Stars. That falls into that sub-genre of reality shows?

5 A Yes, do you mean Dancing With the Stars, ABC's show or
6 the other one that was mentioned, which was our show? Or does it
7 not matter?

8 Q I'll take either one.

9 A Okay. I mean, yes, they both would fall into -- into --
10 we'd call reality competition.

11 Q Okay. And that was less than 1 percent on your schedule
12 during the --

13 A Yes.

14 Q -- 2009 to 2011 time frame?

15 A Yes. Our -- in the aggregate our game show, our one game
16 show plus any reality competition were less than 1 percent of the
17 schedule.

18 Q Okay. You were asked some questions about GSN 13. Could
19 you go there?

20 A Oh, GSN 13. Yes.

21 Q Okay. And in particular the slide on page 4.

22 A Yes.

23 Q Okay. I'm going to leave it to Ms. Martin to explain --
24 and she's been deposed and asked questions, and she'll explain what
25 she meant about this. I want to focus on what you think. Is this

1 slide and the fact that GSN appears on this slide -- does that
2 represent the way, as far as you understand it, WE viewed its
3 competitive set?

4 A No.

5 Q Okay. And if you go, if you could, to the big book.

6 JUDGE SIPPEL: That was just Rainbow Media Off Site.
7 That was that slide that you were referring to?

8 MR. GORDON: Exactly, Your Honor.

9 JUDGE SIPPEL: And what does that mean, "off site?"

10 THE WITNESS: That just was lingo for a meeting that
11 would take place outside the office.

12 JUDGE SIPPEL: Got you. Okay. Keep going.

13 BY MR. GORDON:

14 Q Okay. So that was not, as far as you are concerned,
15 representative of the way WE viewed its competitive set?

16 A That's correct.

17 Q And if we look at the big binder now --

18 JUDGE SIPPEL: Yes.

19 BY MR. GORDON:

20 Q Right?

21 A Yes.

22 Q And I'm going to look at these documents here. And if I
23 flip through each one of them, these are the daily overnights,
24 right?

25 A Tab 4?

1 Q Tab 4.

2 A Yes, this --

3 JUDGE SIPPEL: Tab 4. Okay. Go ahead.

4 THE WITNESS: I believe these are -- these are samples of
5 overnights. This is something we would get every day.

6 BY MR. GORDON:

7 Q Right.

8 A But these -- these are samples from across the time
9 period. This is not every one we'd get.

10 Q Right. There would be a stack much higher, right?

11 A You could not fit it into this binder, correct.

12 Q Exactly. And --

13 JUDGE SIPPEL: We have binders that can take all kinds of
14 things.

15 THE WITNESS: Yes.

16 JUDGE SIPPEL: The big, big binder. This is a big
17 binder.

18 THE WITNESS: Oh, the big, big binder. We could try.

19 JUDGE SIPPEL: Go ahead.

20 THE WITNESS: A lot of paper.

21 BY MR. GORDON:

22 Q And if you turn to the page 8 of 21; just so we're all
23 clear --

24 A Yes.

25 Q -- you are looking at what WE and what your competitive

1 set does, right, overnight, right?

2 A Yes, the next day after the performance from the prior
3 day.

4 Q Right. And could you just give the Judge what these
5 networks are, what these abbreviations stand for?

6 A Yes, just walk through the --

7 Q Yes.

8 A -- networks? WE is WE tv.

9

10

11

12 Q Okay. And you have reviewed the documents, Exhibit 4,
13 before you sat on this stand, have you not? You've flipped
14 through --

15 A These?

16 Q -- all of these --

17 A Yes.

18 Q -- documents?

19 A Yes.

20 Q Did you see any mention of GSN in any of these?

21 A No.

22 Q And as far as you recall, do you recall ever seeing an
23 overnight that had G-S-N as an abbreviation in any of these
24 columns?

25 A No.

1 Q Okay. And if I went to Tab 5 --

2 JUDGE SIPPEL: Well, let me just ask you about -- are you
3 going to Tab 5?

4 MR. GORDON: Oh, yes.

5 JUDGE SIPPEL: Let me ask me about this. I got to --
6 going back to this which you say Nielsen refers to that as
7 And what about these programs?

8
9
10 THE WITNESS: No, it's You're correct. It's an
11 abbreviation.

12 JUDGE SIPPEL:

13 Okay. That speaks for itself. Are all of these
14 programs -- is their target women, all of them? Some of them might
15 be. I mean, I can see but can you answer that?

16 THE WITNESS: Do they all target women? My understanding
17 is that -- that is one of the networks that does garner a lot of
18 women in 25-54. So --

19 JUDGE SIPPEL: No, I understand --

20 (Simultaneous speaking)

21 THE WITNESS: You asked me what the age was. I'm not
22 familiar with every one of these shows. I can tell you that
23 is their big top hit, and yes, that's
24 very female. is a probably a little less
25 female, but still majority. So, these are all --

1 Q And if you turn to page 6 of 13, it also has competitive
2 information?

3 A Right.

4 Q Right? And again, these reflect your competitive set
5 using those same abbreviations?

6 A That's correct.

7 Q And it's got different colors for these networks?

8 A Yes.

9 Q And you've reviewed all of the documents behind tab 5 as
10 well, correct.

11 A Yes.

12 Q And if we flipped through them, we wouldn't see any of
13 these weekly reports containing information on GSN, correct?

14 A That's correct.

15 Q To the best of your recollection, did you ever receive a
16 weekly or quarterly report that contained competitive information
17 on what GSN was doing?

18 A No.

19 MR. GORDON: I think I'm done, Your Honor. No further
20 questions.

21 JUDGE SIPPPEL: This program Dancing With the Stars, I
22 don't watch that, but I hear it being advertised a lot, Dancing
23 With the Stars. When did you launch that one, Dancing With the
24 Stars?

25 A My network didn't air Dancing With the Stars. We aired

1 a different show called -- I think America's -- The Skating Star
2 Show. This is before this period. We didn't air Dancing With the
3 Stars. That's on ABC.

4 JUDGE SIPPEL: I thought I saw some testimony here about
5 Dancing With the Stars. No? Am I am wrong?

6 MR. COHEN: Your Honor, GSN at some point had Dancing
7 With the Stars. I think that's the testimony you recall.

8 JUDGE SIPPEL: It was GSN, not Cablevision?

9 MR. COHEN: Not WE.

10 JUDGE SIPPEL: Not WE? What about Cablevision?

11 MR. COHEN: Cablevision doesn't air programming. It airs
12 networks, right?

13 JUDGE SIPPEL: I see.

14 MR. COHEN: Right. Yes.

15 JUDGE SIPPEL: All right.

16 THE WITNESS: But I -- I could tell you that Dancing With
17 the Stars didn't air on any of the Cablevision networks.

18 JUDGE SIPPEL: Okay. Competition show you did air, do
19 you remember testifying about that?

20 THE WITNESS: Yes, I'm just trying to recall the exact
21 name of the show.

22 JUDGE SIPPEL: Yes, I am, too.

23 THE WITNESS: Okay.

24 JUDGE SIPPEL: Can you help me?

25 THE WITNESS: It was prior to this period we're talking

1 about. We had -- I think it was called Skating's Next Star.
2 America's Next -- Skating's Next Star. Something -- a
3 configuration of those words, Your Honor. It was about -- it was
4 a skating competition.

5 JUDGE SIPPEL: Well, when was that aired?

6 THE WITNESS: I think 2006. Yes, I think --

7 JUDGE SIPPEL: That's way early?

8 THE WITNESS: I'm sorry?

9 JUDGE SIPPEL: Way early that is?

10 THE WITNESS: Yes, I believe it was 2006.

11 JUDGE SIPPEL: All right. Oh, I know. I do have a
12 question. Let me think. Would WE tv be able to survive on a
13 sports tier?

14 THE WITNESS: Oh, I -- I don't know about what survival
15 would entail.

16 JUDGE SIPPEL: Well, being able to live. I mean, that
17 kind of thing, yes.

18 THE WITNESS: I don't know. I don't know.

19 JUDGE SIPPEL: WE tv wouldn't be wiped out if it was on
20 a sports channel, would it?

21 THE WITNESS: I don't believe it would be.

22 JUDGE SIPPEL: What would be the harm of going up then?

23 THE WITNESS: It would not be a preference to have a --
24 a women's network with our brand and our look be surrounded by what
25 I'm -- I imagine would be more male.

1 JUDGE SIPPEL: Well, supposing -- this is all
2 hypothetical now.

3 THE WITNESS: Yes.

4 JUDGE SIPPEL: But supposing Cablevision thought it could
5 save a lot of money. They're \$80 million in the hole and they want
6 to chip that down. So they say, well, Ms. Doree, would it bother
7 you very much; or say that to Kim Martin, if we put you up there?
8 You'll still make money.

9 THE WITNESS: I don't think she would find that
10 desirable.

11 JUDGE SIPPEL: You don't think so?

12 THE WITNESS: No.

13 JUDGE SIPPEL: Do you know if anybody in the industry
14 would find that desirable?

15 THE WITNESS: To be in a sports tier?

16 JUDGE SIPPEL: Yes, non-sports programming being put up
17 in the sports tier.

18 THE WITNESS: I don't know enough about that. There are
19 male networks that are entertainment networks like Spike TV or
20 truTV. I don't know. I'm just -- I would be guessing
21 hypothetical. I -- I -- I don't know how they'd feel.

22 JUDGE SIPPEL: But anything that was -- well, anything
23 that's skewed female.

24 THE WITNESS: Okay.

25 JUDGE SIPPEL: Would anybody who had a network that's

1 skewed female want to be put up on a sports tier?

2 THE WITNESS: I can guess at my answer, Your Honor.

3 JUDGE SIPPEL: Really?

4 THE WITNESS: Yes, my guess would be that that would not
5 be desirable. I -- I don't know --

6 (Simultaneous speaking)

7 JUDGE SIPPEL: Well, in all the experience that you've
8 had in this game --

9 THE WITNESS: Yes.

10 JUDGE SIPPEL: -- this game. That's a bad word.

11 THE WITNESS: It's a game.

12 JUDGE SIPPEL: It's a game. In all your experience, and
13 there's been a heck of a lot --

14 THE WITNESS: Yes.

15 JUDGE SIPPEL: -- don't you have an opinion on something
16 like that? I mean, let me put it this way: that would be very bad
17 news, wouldn't it?

18 THE WITNESS: I can tell you I have an opinion for WE tv,
19 for our network.

20 JUDGE SIPPEL: I'm not asking about WE tv.

21 THE WITNESS: That's a -- well, you were asking
22 hypothetically any woman's -- any network.

23 JUDGE SIPPEL: Well, okay. Yes, that's skewed. Any
24 network -- you're a network, right?

25 THE WITNESS: Yes.

1 JUDGE SIPPEL: Any network that skews towards women.

2 THE WITNESS: Yes, I -- my opinion is that would not be
3 desirable.

4 JUDGE SIPPEL: Okay.

5 THE WITNESS: But I -- I -- channel positioning was not
6 something I was very involved in because it didn't touch my area
7 that much. In all my years in Cablevision, and even as a Time
8 Warner customer, WE tv's channel I don't believe changed.

9 JUDGE SIPPEL: I didn't ask that question, but --

10 THE WITNESS: I am sorry; I was just offering it.

11 JUDGE SIPPEL: -- I mean, the logic seems to just follow
12 as the night follows the day, the way that you've been testifying
13 about WE tv.

14 THE WITNESS: Okay. Yes.

15 JUDGE SIPPEL: Now, does anybody have anything else?

16 MR. SPERLING: Short recross, Your Honor?

17 JUDGE SIPPEL: Go ahead.

18 MR. SPERLING: Your Honor, to start with the easiest thing
19 we have, we asked the witness previously questions about GSN
20 Exhibit 412 which was a loosey. We'd like to move that into
21 evidence.

22 MR. GORDON: No objection over your loosey.

23 JUDGE SIPPEL: Loosey accepted, 412.

24 (Whereupon, the above-referred to document was received
25 in evidence as GSN Exhibit 412.)

1 MR. SPERLING: Thank you, Your Honor.

2 BY MR. SPERLING:

3 Q Ms. Doree, a few minutes ago in response to one of Mr.
4 Gordon's questions he asked you about your number of viewers that
5 you had in the 55-plus demographic as compared to being in the 25
6 to 54 demographic. I think we were looking at GSN Exhibit 334 at
7 the time. Maybe you want to open up to that one.

8 JUDGE SIPPEL: Big or little books?

9 MR. SPERLING: Little book, Your Honor.

10 JUDGE SIPPEL: What, 334?

11 MR. SPERLING: Three three four.

12 BY MR. SPERLING:

13 Q And, Ms. Doree, I may have misheard your testimony. I
14 thought that you testified that the ratio of women viewers 25 to 54
15 to number of women viewers 55 and above that we have was probably
16 two to one. Is that what you testified to?

17 MR. GORDON: In the time period.

18 THE WITNESS: In this time period?

19 MR. SPERLING: Yes.

20 MR. GORDON: This is a different time period.

21 THE WITNESS: Yes. It's not -- I don't believe we were
22 talking about this time period.

23 BY MR. SPERLING:

24 Q What time period were you talking about?

25 A I believe we were looking at the '09 - '10 time period or

1 maybe -- I'm not exactly sure because I was asked a few questions
2 about that. I know we looked at the Braxtons from 2013. And I
3 believe there was a follow-up question to any relative period.

4 Q What is the period during which you believe that the
5 proportion of your viewers 25 to 54 as compared to 55 and above
6 women was two to one?

7 A I believe that's true of 2009 to 2010.

8 Q Let me ask you to go back to the big book, Tab 5. And if
9 you start with Cablevision Exhibit 58 which is the first one behind
10 that tab.

11 A Yes.

12 Q So in median age -- and I'm on page 5 of 13 -- the median
13 age reported here for WE season to date is ; do you see that?

14 A Let me just catch up with you. Season to date. I see
15 next to the '07 - '08 period, six months in '07 to '08.

16 Q Okay. And for the last quarter of '08 through the first
17 quarter of '09 is immediately beneath that?

18 A Yes.

19 Q If 50 percent of your viewership is below and 50
20 percent is above , what data enables you to know that for 25 -
21 54 versus 55-plus ratio is two to one?

22 A These are only some of the reports that we would -- this
23 is one example of the many reports we'd look at. So we would get
24 ad hoc and other regular reports that would show us all the
25 demographics for our shows and for our averages.

1 Q And do you see any of those documents here today?

2 A No.

3 Q Now, you testified also that the sweet spot for you is a
4 median age of 42 to 43; is that right?

5 A I believe that's where the sweet spot was, early 40's.
6 But I believe that during, you know, '09 - '10 we were about ,
7 . I believe that's what I said.

8 Q Now, with apologies for flipping back and forth between
9 the binders, if you go back to the small book and look at GSN 285.

10 A Twenty-five, is that?

11 Q Two eight five.

12 A Two eight five. Yes.

13 Q And if you could turn to the second page of the document,
14 the one that has the heading at the top "WE and key competitors
15 prime time 8:00 p.m. to 11:00 p.m."

16 A Yes. I'm sorry -- oh yes, I'm sorry. Yes.

17 Q And this is for a later period 2014; correct?

18 A Right, yes.

19 Q But you're still a women's network in 2014 just like you
20 were in 2009?

21 A Right. We're still a women's network.

22 Q And you still compete with the same competitive set as
23 you competed with in 2009 more or less?

24 A It's more or less, yes. It's changed slightly.

25 Q And this document shows that prime time 2014 year-to-

1 date, and this appears to be through the end of the third quarter
2 of 2014, you had a median age of correct?

3 A Correct.

4 Q Let me ask you also to -- I'm not sure I'm going to ask
5 you that.

6 Yeah, if you go back to the big binder again. Big binder
7 Tab 5.

8 A Yes.

9 Q Cablevision Exhibit 67 which is the second of the
10 Cablevision exhibits behind this tab, so behind this first blue
11 slip sheet.

12 A Yes.

13 Q Exhibit page

14 MR. GORDON: Could you give me the number again please?

15 MR. SPERLING: Yeah. It's Tab 5. It's Cablevision 67.

16 MR. GORDON: Sixty-seven, okay.

17 MR. SPERLING: And we're on page 5 of 13.

18 JUDGE SIPPEL: Sixty-seven?

19 MR. SPERLING: Yes, Your Honor. Cablevision 67.

20 JUDGE SIPPEL: I've got it. And it's page 5?

21 MR. SPERLING: Page 5 of 13, Your Honor.

22 JUDGE SIPPEL: Okay.

23 BY MR. SPERLING:

24 Q And this is from about halfway through 2009; correct?

25 A It's longer than halfway two thousand -- I mean it's

1 inclusive of the fourth quarter of 2008 through the first half of
2 2009.

3 Q Well why don't we look at both charts at the bottom. The
4 one that has the pink header --

5 A Oh, I'm sorry.

6 Q -- is measuring quarter to date. And so that's
7 essentially the entire second quarter of 2009; correct?

8 A Yes. Apologies; I was looking at the wrong chart.

9 Q And that actually shows a median age for the second
10 quarter of 2009 for WE tv at , right?

11 A That's right.

12 Q Not

13 A That's right.

14 Q When Judge Sippel asked you about Most Popular you
15 offered some testimony about what you believed Ms. Martin would
16 have said about it being an experiment. Did she tell you that?

17 A I don't recall if she used those words.

18 Q So you're offering your speculation as to what you think
19 she would say in response to the hypothetical phone call from Mr.
20 Dolan; right?

21 MR. GORDON: Your Honor, I think that's unfair. I think
22 that's what she was asked and she answered your question. Now
23 she's being cross-examined because --

24 JUDGE SIPPEL: Well he can follow up on cross. If it's,
25 you know, he's not harassing the witness, he's not -- go ahead.

1 BY MR. SPERLING:

2 Q And to be clear, Judge Sippel asked you a hypothetical
3 question; right?

4 A Yes.

5 Q If Mr. Dolan were to call. But when you offered your
6 view as to what Ms. Martin would say in response to the
7 hypothetical call from Mr. Dolan, that was simply your conjecture;
8 correct?

9 A Yes. Based on nine years of working with her.

10 Q Now I just wanted to try to pin down one last time, WE tv
11 launched Most Popular because it was intended to appeal to a
12 demographic of women 25 to 54; right?

13 A Yes. That was our belief.

14 MR. SPERLING: Nothing further.

15 MS. KANE: The Bureau has some questions, Your Honor.

16 JUDGE SIPPEL: All right. Before you do I've just got
17 one.

18 The, I've heard this on the news, now the NFL, the
19 National Football League, is trying to pitch their programming to
20 get more women following, viewing what they're putting on the air.
21 Simple as that: they simply want to get more women. Do you think
22 they have a chance of doing that?

23 THE WITNESS: From my experience there is a lot of what we
24 call co-viewing in sports. And but statistically women tend to
25 control the remote control in the house if they're sharing a

1 television.

2 JUDGE SIPPEL: Really?

3 THE WITNESS: Yes. Now there are more televisions and
4 more devices, but yes. So I would -- my best educated guess would
5 be that they are trying to entice the women so that when the men
6 watch, the women also want to watch with them and don't, you know
7 --

8 JUDGE SIPPEL: Well my question is do you think they'll
9 succeed. I mean you know about women programming and whether it is
10 attractive to women and all that kind of stuff?

11 THE WITNESS: I think there would be some degree of
12 success if they're really trying to talk in women's language, yes.
13 Some degree.

14 JUDGE SIPPEL: We will wait, we will wait and see.

15 THE WITNESS: Right.

16 JUDGE SIPPEL: That's all I have.

17 Ms. Kane?

18 CROSS EXAMINATION

19 BY MS. KANE:

20 Q Good afternoon, Ms. Doree.

21 A Yes.

22 Q I know we've been going for quite some time and I
23 remember from this morning that you had a back issue.

24 A Thank you.

25 Q I only have a few questions but I don't know if you want

1 to take a quick break to alleviate anything?

2 A That's much appreciated.

3 Q Are you okay?

4 A But I'm fine, thank you.

5 Q Okay. Good afternoon. My name is Pamela Kane. I
6 represent the Enforcement Bureau. And with me is my colleague Mr.
7 Knowles-Kellett.

8 A All right.

9 Q As I said, I will try to be brief so that you're not
10 sitting there too much longer.

11 Earlier this morning you testified about something called
12 the branding book; correct?

13 A Yes.

14 Q And if I could turn you to what I believe you testified
15 was a branding book, which is in the large notebook at Tab 2, and
16 ask you to confirm for me that that is in fact a branding, what you
17 were referring to as a branding book?

18 A We call it a brand book.

19 Q A brand book?

20 A But I believe those are interchangeable.

21 Q But this, you would define this as a brand book; correct?

22 A Yes.

23 Q How is a brand book used by WE?

24 A They're created primarily by the marketing department.

25 And it is a way to be very clear with all of the internal people,

1 whether that's the people trying to sell for advertising,
2 affiliates, programmers, our website people. Everybody who has
3 their hand in network that this is the palette that we use to
4 create everything we do. And it's incredibly important we're
5 consistent. If not, we'd be sending different messages through
6 different vehicles.

7 Q How frequently are brand books created?

8 A I know it varies. It can vary significantly for other
9 networks. I can speak to the WE tv experience where if we had a
10 brand that we felt was resonating and really working we may have
11 stuck with that for two years, maybe three years. At other times
12 you attempt a launch and for whatever reason maybe it's not
13 working, then might, you might do a brand book maybe a year later.
14 If you're doing it right it's every two to three years possibly.

15 Q How frequently does, in your recollection did WE change
16 its brand?

17 A There were, there were a lot of brands in development
18 that didn't see fruition. So I'd have to, I'd have to best
19 ballpark it, in my time there, 14 years, I can certainly think of
20 one, two, three, four, there were, I think there were I would say
21 I felt like there were six, seven in my 14 years there. So
22 probably six that we actually executed.

23 Q When you say there were six, what do you mean, in what
24 way did you change the brand for WE on those six occasions?

25 A We started out actually as a network called Romance

1 Classics and changed the name in late 2000. And so --

2 JUDGE SIPPEL: What year was that you started with
3 Romance?

4 THE WITNESS: We started with Romance, I believe it
5 launched in 1997.

6 JUDGE SIPPEL: Thank you.

7 THE WITNESS: And in I believe December of 2000 the
8 network was renamed WE and a new branding, brand book and branding
9 effort was put behind that. And we were at the time a little bit
10 more of a -- one of our, one of our tag line -- our tag line I
11 believe was the space we share -- it was a little bit more, I don't
12 have good words for it, touchy-feely network if that means anything
13 to anyone in that it was a little bit more relaxed, recharge,
14 rejuvenate, watch a movie kind of feel. That's where Cinema
15 Therapy came from which was it was therapy, you know, shorthand
16 therapy, if you watch this movie we could help you solve some of
17 your problems.

18 And we evolved. At one point we, as our programming
19 changed we became much more original programming, less originally
20 movie-dependent, we became less and less of that. We at one point
21 when we were doing more comedic things like with Joan Rivers we had
22 a tag line that was "WE have more fun." And then we went to
23 "Simply Fascinating." After that we did "Life As WE Know It." And
24 with new management who came in about a year-and-a-half ago we
25 changed up our look again.

1 BY MS. KANE:

2 Q And did WE prepare a brand book each time it made those
3 brand differentiations?

4 A There should have been a brand book made, yes. I don't
5 know definitively because it changed hands to some of the people
6 who were doing it. But there should have been a brand book that
7 was disseminated to the whole team.

8 Q Were brand books ever disseminated to folks outside of WE
9 tv?

10 A They should not have been to my knowledge. They would --
11 I'm sorry, did you want me to continue?

12 Q I would just like you to complete your answer. So if
13 you, if there's more that you feel the need to complete your answer
14 , that's fine.

15 A The brands and these images and such would be utilized in
16 PowerPoints that went to advertisers and to affiliates, like some
17 of what we looked at here. But that would not be the brand book
18 itself. That would be elements from the brand book.

19 Q And when you say it might be shared with affiliates, what
20 is your understanding of the term "affiliate" in how you used it?

21 A What we call now MVPDs, so that the operators.

22 Q So you're not necessarily saying another network, but
23 you're not saying that "affiliate" means another network that might
24 be owned by Cablevision or has --

25 A No.

1 Q -- some Cablevision ownership?

2 A No, I'm sorry. I'm referring to cable operators when I
3 say that.

4 Q I believe you testified earlier this morning in response
5 to one of the Judge's questions that ratings are a very valuable
6 source of information in determining the value of particular
7 programming. Do you recall that testimony?

8 A Yes. I don't recall the exact testimony but that sounds
9 right, yes.

10 Q Is that consistent with your understanding that ratings
11 are a valuable metric?

12 A Absolutely.

13 Q And when you were referring to ratings, what type of
14 ratings were you referring to? In other words, the source of those
15 --

16 A Nielsen ratings?

17 Q Yes.

18 A They're probably Nielsen ratings as the industry
19 standard.

20 Q Are you familiar with set top polling data, set top box
21 polling data?

22 A I've heard of set -- I know it's -- I've heard the
23 terminology "set box" -- set top box --

24 Q Sorry. Set box polling data.

25 A I'm not sure what that is.

1 Q So that's not something that you use on a regular basis?

2 A No, not that I've seen

3 Q Can you describe the differentiation in your mind between
4 what is a reality competition show and a game show?

5 A Yes. A game show in and by design of its format would
6 have a regular host, contestants vying for a prize. There would be
7 the goal is to win something and to go against each other and win.
8 And most game shows I would expect to see probably a studio
9 location, some key music and a very rigid format in terms of
10 rounds, this round, that round, final round, lightning round.

11 With competition reality they go outside the studio. The
12 -- and with game shows you often you see the contestants vie in
13 that episode, you don't necessarily see those contestants again
14 unless maybe they're the returning champion. With competition
15 reality you may from beginning to end of that season you'd be with
16 all the same characters because the prize isn't given at the end of
17 one episode, it's given at the end of the entire season or
18 throughout the season.

19 They usually have hosts, similarly. And it is more -- it
20 is less what I would consider scripted in that format in that we
21 don't know exactly what's going to happen. That's why it's in the
22 reality category. It's a little bit more similar that you're
23 putting the cameras on people living on an island and you've given
24 them some instruction of what they're supposed to do and what's at
25 stake. And then the cameras follow them as they do that, as

1 opposed to standing behind a podium or sitting in a chair.

2 Q I believe you testified earlier today that you considered
3 Dancing With the Stars a reality competition show; correct?

4 A That's right.

5 Q That's not shot outside, is it?

6 A No. To the best of my knowledge that's a good example of
7 one that is not. American Idol is not either.

8 Q So in order to be a reality competition show it doesn't
9 necessarily have to be outside nor --

10 A No.

11 Q -- maybe fit into some of the other criteria that you
12 identified; correct?

13 A That's correct.

14 Q So reality competition can have a host?

15 A Yes.

16 Q And it can have a prize at the end?

17 A Yes.

18 Q And it can, it can have contestants, correct?

19 A Yes.

20 Q We heard a lot of testimony earlier today about the
21 program Most Popular. Can you just give us a little background as
22 to how that, how that program was set up, what was it's, what was
23 it's -- how was it designed? And not, not in its production but if
24 you had to describe what that program was to somebody who had never
25 seen it, how would you describe it?

1 A I would describe it as a game show hosted by Graham
2 Norton in which women are the contestants. And I will admit that
3 it was so long ago and such a sort of flash in the pan for us that
4 I don't remember. I watch thousands of hours of programming a year
5 and I just don't have a clear recall of watching the episodes. I'm
6 sure I did as part of my job. But I would, we would have described
7 it as a game show.

8 Q I understand you described it as a game show. But if
9 I've never watched it before what kind of competition was going on
10 on that show; do you recall?

11 A I don't recall what they were vying for. I know it was
12 in a studio. They had a glitzy set. It had a studio audience.
13 I'd have to go back. I was looking at the press release
14 and just trying to see how --

15 Q Well why don't we turn to that press release.

16 A Refresh my memory.

17 Q I believe that's --

18 A Yes.

19 Q -- GSN Exhibit 25 in the small book.

20 A Yes.

21 Q And is there something in there that refreshes your
22 recollection as to how you would describe that show?

23 A I'm just reviewing it.

24 Q And again, just for clarification for the record, I'm not
25 asking you to describe the genre but just generally what would

1 happen if I watched that show, what would I expect to see?

2 A Okay. Okay, so I, right, the host is with the seven
3 contestants, all women. And that's right, the, the -- based on
4 first impression the contestants could be sent home by the viewer.
5 I think the viewing audience voted and they could just send them
6 home based on the way they looked or other attributes without them
7 actually having to do anything. And in that --

8 Q But so can I just make sure that the record is clear? So
9 if I understand that, you have a series of women standing on let's
10 say a line of some sort, and the audience can vote on whether they
11 are attractive?

12 A I believe it's based -- well, first, it's first I believe
13 they say nothing and they vote on just what they think of them.
14 The way they look.

15 Q So just so from --

16 A What type of people they might think they are based on
17 how they look.

18 Q Okay.

19 A I believe. And then there's these different stages. So
20 then the host starts to reveal pieces of these women's lives. And,
21 you know, I think the idea was that you can't always judge a book
22 by its cover. You may see someone and the appearance doesn't
23 appeal to you but you hear her story and then you might feel
24 differently.

25 And so everything from their clothing choices to their

1 triumphs and tragedies help to shape the audience's opinion.

2 Q So that I understand again, just from your testimony,
3 they were asking questions about these women's personal lives?

4 A I think so. Again I apologize, but it was such a small
5 percentage of what we did that I, it's not something I would change
6 personally.

7 Q Would you consider that show scripted or unscripted?

8 A As in genre, as in formats? Because I consider game
9 shows, game shows have a scripted element to them. And just so
10 you'd have so the host would know what questions he was going to
11 ask. But the contestants would not have the pre-scripted answers.
12 So I suppose a hybrid is the answer.

13 Q I believe you testified earlier this morning that you
14 pulled Most Popular off the air after only six episodes; is that
15 correct?

16 A Yes. Only six were produced for the season. We aired at
17 prime time I believe for the first two weeks. And due to poor
18 ratings we moved it to a, I believe it's a late night in order to
19 air what's called burn off those episodes for financial reasons.

20 Q And WE tv didn't do anything to determine reasons why
21 there were low ratings for the show?

22 A We probably did what we call a post-mortem. But I don't
23 recall the specifics of that at the time. It really was when a
24 short-lived experiment doesn't work we really move on to -- we just
25 move on, you know, because we're looking at a couple hundred hours

1 of new content a year.

2 Q When you say "post-mortem" what are you referring to?

3 A It means you go back with your research department and
4 marketing, PR, the other departments, anybody who would have put in
5 effort towards launching the show and seeing its success. You'd
6 regroup and talk about your successes and failures, what you think
7 was done -- you did right, you did wrong, could have done better.
8 And some of it is really guesswork as to why something failed or
9 succeeded. Because we do post-mortems on all of our, now do them
10 on all of our shows.

11 Q And do you recall if a post-mortem was done after you
12 pulled Most Popular off the air --

13 A I don't --

14 Q -- or after its six run, its six episode run ended?

15 A I, I don't recall. I knew that it was considered such a
16 failure that it was financially written off by the company. So I
17 don't know if we would have done it.

18 Q I think our answers may have cross wires, listening to
19 your answer and thinking. But I just want to confirm, didn't you
20 just testify that you do post-mortems for all your shows?

21 A No. I said we do them now for all of our shows. Back
22 then I said I would imagine that there would have been one but I
23 don't know definitively if there was one done. I don't recall it.

24 Q And I believe the Judge asked you a few questions which
25 were hypothetical about what would happen if WE tv was moved to the

1 sports tier. Do you recall that line of questioning?

2 A Yes.

3 Q And I believe he asked you your personal opinion of what
4 you would think of that decision. Do you recall that?

5 A Yes.

6 Q And I believe you said that you would not consider that
7 desirable. Do you recall your testimony?

8 A Yes.

9 Q Why wouldn't you consider it desirable?

10 A Because as a network attracting women 25 to 54 and 18 to
11 49 I would assume, and I would, if I were really facing this I
12 would do more research into it, that if I was put in a sports tier
13 that those are predominately male networks and that there would not
14 be crossover interest in flipping the channel between the men,
15 women who would want to watch WE tv and mostly men who'd want to
16 watch the sports. That would be my assumption.

17 Q Would you think there'd be a negative impact on ratings
18 for WE tv?

19 A I think WE projected there would be, yes. Especially
20 depending on where it is on the numbering.

21 Q And ratings have a correlation to ad sales; correct?

22 A Absolutely.

23 Q So if your ratings dropped you would have presumably a
24 correlation of ad sales dropped, correct?

25 A Yes. Ratings in the demo you're trying to sell, yes.

1 Q And so those would be some of your concerns if you were
2 up on the sports tier that you would have a ratings drop and an ad
3 sales drop, correct?

4 A Hypothetically, yes.

5 Q Hypothetically any other concerns that you might have?

6 A I think that -- I'm trying to think because I, this would
7 be conjecture, not based on what I needed to do in this job.

8 Q Understood.

9 A Yeah.

10 Q Just one last question. If in fact in this hypothetical
11 world WE tv was put on a sports tier, presumably that sports tier
12 would require the viewers of WE tv to pay to be on that, to get
13 that channel on the sports tier; correct?

14 A I don't know how the sports tier works in terms of cost.
15 But I would take your word for it if that's the way it works. I
16 don't know that. I really don't have familiarity with sports
17 tiers.

18 Q Well, let's just say right now WE tv is on a broad
19 distribution; correct?

20 A I believe that's true on Cablevision. I don't know if
21 it's true across the country. I don't know where exactly, what
22 tiers were offered on all the operators.

23 Q If WE tv was moved to a tier in which its viewers have to
24 pay for it, would you be concerned that you would lose viewership
25 because of that?

1 A Going from free to having to pay?

2 Q Correct.

3 A Yes, I'd be concerned.

4 Q Do you have any estimates of how many viewers you might
5 lose in that process? Is that something you do as part of your
6 job?

7 A No. That, that would go to a different department. That
8 would mostly go to finance and affiliate sales to estimate.

9 MS. KANE: Thank you very much. That's all the Bureau has
10 today.

11 MR. GORDON: Your Honor, may I ask one follow-up?

12 JUDGE SIPPEL: Certainly.

13 REDIRECT EXAMINATION

14 BY MR. GORDON:

15 Q You understand WE tv was on expanded basic?

16 A On Cablevision?

17 Q Yes.

18 A Yes.

19 Q And you pay for expanded basic?

20 A Yes. As part of a group of multiple networks.

21 MR. GORDON: Thank you.

22 JUDGE SIPPEL: What is expanded basic? Can you explain
23 that to me?

24 THE WITNESS: What is it?

25 JUDGE SIPPEL: Yes.

1 THE WITNESS: Is that your question? My understanding is
2 that there is basic tier that offers some networks that if you just
3 by virtue of paying a standard rate you get those networks.

4 JUDGE SIPPEL: Those are referred as commonly as the cheap
5 seats; that's right?

6 THE WITNESS: I don't know.

7 JUDGE SIPPEL: It's the first level coming in?

8 THE WITNESS: Yes. No, those are often very pop -- they
9 can be very popular networks or networks that were established
10 there.

11 JUDGE SIPPEL: Okay. So then you have to pay a little bit
12 more to get expanded?

13 THE WITNESS: That's my understanding. On expanded you
14 get a lot more networks and you pay a price for that as well, a set
15 price to get all those networks.

16 JUDGE SIPPEL: Do you know how much more you pay?

17 THE WITNESS: That I don't know. I don't have Cablevision
18 at home. I'm not a Cablevision subscriber. Also my understanding
19 is all operators do it differently.

20 JUDGE SIPPEL: You've had enough of it during the day,
21 huh, you can't --

22 THE WITNESS: We really honestly we don't talk about, in
23 my part of the job we don't talk about channel positioning or
24 license fees because it's really the cable operators and the
25 affiliate groups' side. It's not something that we engage in

1 frequently.

2 JUDGE SIPPPEL: Okay. I'm going to show you, this is Tab
3 1 in the big book. You don't have to turn to it. I'm just going
4 to show this to you. But you see all the white spaces?

5 THE WITNESS: Yes.

6 JUDGE SIPPPEL: What do they signify?

7 THE WITNESS: May I turn to it here?

8 JUDGE SIPPPEL: Yes, sure. Oh yeah, I'm sorry, I didn't
9 mean to take it away from you. You're looking at what, 131?

10 THE WITNESS: Yes. Page two of six. Okay, great. Yeah,
11 it's a, it's a little hard to follow, I will admit, as I was trying
12 to, as explained to other people. First off we color coded
13 anything in what's called our sales prime time. And our sales
14 prime time was 6:00 p.m. to 1:00 a.m.

15 JUDGE SIPPPEL: Okay.

16 THE WITNESS: So in that period this is just our internal
17 coding. This is not from my understanding at all an industry
18 standard. The code meant something to us as programmers. This is
19 very much an internal document.

20 So if it was in sales prime 6:00 p.m. to 1:00 a.m. it got
21 a color. And then the color, the different colors distinguish.
22 The beigey color were acquired series. The pink color were
23 original series. The blue was I think the movies. And then the
24 green was our, I believe our WE Reveal block.

25 JUDGE SIPPPEL: The what?

1 THE WITNESS: That block of documentary programs I was
2 describing called WE Reveal.

3 JUDGE SIPPEL: Oh yes, I see it right here.

4 THE WITNESS: Yeah. And then for some reason I can't
5 really explain to the Court --

6 JUDGE SIPPEL: Yes?

7 THE WITNESS: -- we seemed to color code only our
8 acquisitions and other standout programming outside of prime time.
9 And you see that in the morning there, you see that beige section
10 where it says Hope and Faith and Girlfriends, we chose to highlight
11 those acquisitions yet not color code the rest of the document.

12 JUDGE SIPPEL: And you don't know why?

13 THE WITNESS: I have an idea. But again it was such an
14 internal document, the way that all the schedulers spoke to each
15 other.

16 JUDGE SIPPEL: In colors?

17 THE WITNESS: Yes, in colors.

18 JUDGE SIPPEL: Really?

19 THE WITNESS: Yes. Well, we have 133 hours a week of
20 content. And in order to see our buckets differently and have a
21 sense of where everything is falling we found it easier to color
22 code them.

23 JUDGE SIPPEL: And what is this yellow one? I'm looking
24 now at the, this would be the code or down at the bottom, it says
25 "movie stunt," --

1 THE WITNESS: Yes.

2 JUDGE SIPPEL: -- Under the Mistletoe?

3 THE WITNESS: Yes.

4 JUDGE SIPPEL: "Sold." What does that mean?

5 THE WITNESS: That means as part of what we do with
6 programming is we provide what's called programming stunts to ad
7 sales, our ad sales department to offer them to advertisers. And
8 so in addition to buying commercial spots they get these stunts.

9 So in this case we created a stunt called Under the
10 Mistletoe which we did -- I'm assuming that it was Christmastime --
11 and we chose these three movies. These are all movies: Forever
12 Young, She's the One, and It Can Happen to You, they all have
13 movies, Christmassy type themes and scenes in them, so we packaged
14 them together and aired them together. And would have done a
15 promo, an on-air promo calling it Under the Mistletoe. And then it
16 would be brought to you by the sponsor.

17 JUDGE SIPPEL: And obviously those are out of prime time?

18 THE WITNESS: In this particular case, yes, these are out
19 of prime time. We have done stunts in time, inside prime time as
20 well.

21 JUDGE SIPPEL: All right. I think that's all my
22 questions.

23 Do you have a favorite game show?

24 THE WITNESS: Of all time?

25 JUDGE SIPPEL: Yeah, of all time.

1 THE WITNESS: Probably Jeopardy.

2 JUDGE SIPPEL: Jeopardy.

3 THE WITNESS: I like to be challenged. But I'm only good
4 at the television section.

5 JUDGE SIPPEL: Did you ever consider You Bet Your Life?

6 THE WITNESS: I actually know what You Bet Your Life is.

7 JUDGE SIPPEL: What is it?

8 THE WITNESS: I studied the history of television. I
9 believe that was Groucho Marx; yes?

10 JUDGE SIPPEL: Yes.

11 THE WITNESS: Groucho Marx's game show from I'm going to
12 say 1950, early '50s.

13 JUDGE SIPPEL: Would that appeal to women, in your
14 opinion?

15 THE WITNESS: I don't know that it would actually -- I
16 don't know who that would appeal to. It's very hard to air black
17 and white television today, with the exception of I Love Lucy.
18 It's very difficult to get people to watch that. So --

19 JUDGE SIPPEL: This was great. He had a duck that came
20 down and gave you --

21 THE WITNESS: Very funny show. Very funny show. I agree.

22 JUDGE SIPPEL: All right. That's all I have.

23 Are you all set?

24 MR. SPERLING: Your Honor, we have one follow-up on the
25 Enforcement Bureau's questions.

1 RE-CROSS EXAMINATION

2 BY MR. SPERLING:

3 Q Ms. Doree, I think you testified in response to one of
4 Ms. Kane's questions that Most Popular was pulled by WE tv. Just
5 to be clear, the original season was intended to be six episodes;
6 correct?

7 A That's correct.

8 Q And all six episodes were aired; correct?

9 A Yes. Two in prime and two outside -- four outside prime.

10 Q And after that WE tv didn't renew the program, right?

11 A Yes. We also did not run repeats, which would have been
12 the norm.

13 Q Okay. You testified earlier that, if I understood you
14 correctly, you launch in the neighborhood of 10 to 15 original
15 programs per year, is that right?

16 A In that time period? I think I said 15 to 20 seasons of
17 original series. That's my ballpark.

18 Q So it's not 15 to 20 new programs each year?

19 A Correct. Some of those are returning series.

20 MR. SPERLING: Nothing further.

21 JUDGE SIPPEL: Go ahead.

22 MR. GORDON: I was just going to say I think Ms. Doree
23 should explain why she doesn't get Cablevision for the record.

24 THE WITNESS: I do not live in a Cablevision area. I
25 live in a Time Warner area of Manhattan. And Cablevision is not in

1 Manhattan.

2 JUDGE SIPPEL: Oh, Cablevision is not in Manhattan?

3 THE WITNESS: No. I believe it's on Long Island and parts
4 of New Jersey. I think it's in Connecticut but it's not actually
5 on the island of Manhattan.

6 JUDGE SIPPEL: Well, I thought --

7 THE WITNESS: So I cannot subscribe even if I wanted to.

8 JUDGE SIPPEL: I thought that Cablevision had a big
9 footprint in the New York City metropolitan area?

10 THE WITNESS: Metropolitan area, sure, but exclusive --
11 excluding New York City. I believe there --

12 JUDGE SIPPEL: Excluding Manhattan?

13 THE WITNESS: Excluding Manhattan, yes. I'm sorry, Your
14 Honor. I believe they're in some of the boroughs.

15 JUDGE SIPPEL: All right.

16 THE WITNESS: I think they're in part of Brooklyn.

17 JUDGE SIPPEL: Well I thank you for telling me because I
18 really, I completely -- I would have completely missed that.

19 THE WITNESS: Unfortunately we are not given, as consumers
20 we are not given the choice of what cable operator, unless we want
21 to get satellite. I have to take Time Warner. And I could lodge
22 complaints but I don't think this is the place to do it.

23 JUDGE SIPPEL: Not with me anyway.

24 Now I'm going to go back again to this -- is that all you
25 had?

1 MR. GORDON: Yes. We didn't want you to think she was
2 being disloyal, Your Honor.

3 THE WITNESS: Not at all.

4 JUDGE SIPPEL: Well, I was getting a little quizzical but
5 I mean --

6 THE WITNESS: Not my choice.

7 JUDGE SIPPEL: -- but it doesn't relate to the case at
8 all.

9 GSN Exhibit 25, you know the ad for Most Popular.

10 THE WITNESS: This is the press release.

11 JUDGE SIPPEL: The press release. I'm sorry, yes.

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: What year is that? I can't find here on
14 this.

15 THE WITNESS: Oh, it's under the -- it's at the very
16 beginning of the first paragraph. It says June 29, 2009.

17 JUDGE SIPPEL: Thank you. Okay.

18 Now, on the second page it says, it says, "About Graham
19 Norton." And then it says, "For WE tv Joe Swift is the Executive
20 Producer."

21 THE WITNESS: Right.

22 JUDGE SIPPEL: Is he still with you?

23 THE WITNESS: No.

24 JUDGE SIPPEL: Okay. Does his departure have anything to
25 do with Most Popular?

1 THE WITNESS: I do not believe it does, sir, no.

2 JUDGE SIPPEL: Okay.

3 THE WITNESS: That would be very tough business if a
4 failure of a show equated to people leaving. I'd have a tough time
5 there.

6 JUDGE SIPPEL: Life is tough.

7 THE WITNESS: It is.

8 JUDGE SIPPEL: "Most Popular is produced by The Incubator
9 for WE tv." Do you know anything about that?

10 THE WITNESS: I know that they were, at the time they were
11 an independent production company who produced it. You know, WE
12 commissioned them to produce it.

13 JUDGE SIPPEL: Okay. Did you know anything about The
14 Incubator?

15 THE WITNESS: I didn't know much. I believe that Simon
16 Andrae, who was one of the co-founders of it, is -- I don't
17 believe the company is in existence anymore. I think he's now an
18 executive at Discovery, I think.

19 JUDGE SIPPEL: Simon Andrae?

20 THE WITNESS: Yes.

21 JUDGE SIPPEL: And Jennifer Heftler?

22 THE WITNESS: I don't know her.

23 JUDGE SIPPEL: All right. Were they well thought of in
24 the industry?

25 THE WITNESS: I don't know because, again, I didn't

1 oversee the production group. So I'm really not sure of their
2 reputation. I can tell you that there are other company -- there
3 are many companies who produce a lot of this type of reality
4 television. They're not one of them.

5 JUDGE SIPPEL: They're not. Okay.

6 THE WITNESS: Yeah, that's what I know of them.

7 JUDGE SIPPEL: That's all I have. Anybody else? No?

8 (No response.)

9 JUDGE SIPPEL: Gone? Going, going, gone. That's it.

10 Thank you very much.

11 THE WITNESS: You're welcome.

12 JUDGE SIPPEL: I want to warn you, don't talk about your
13 testimony with anybody, anybody in your company, WE tv or
14 Cablevision, particularly the witnesses that are going to come
15 testify after you. Okay?

16 THE WITNESS: Yes.

17 JUDGE SIPPEL: Any question about that, talk to your
18 counsel.

19 THE WITNESS: Will do.

20 JUDGE SIPPEL: Thank you very much.

21 THE WITNESS: Thank you, Your Honor.

22 JUDGE SIPPEL: Have a safe trip back.

23 THE WITNESS: Thank you. Now to see if I can stand.

24 (Witness excused.)

25 JUDGE SIPPEL: Why don't we just go off the record for a

1 minute.

2 (Whereupon, the above-entitled matter went off the record
3 at 3:43 p.m. and resumed at 4:09 p.m.)

4 WHEREUPON,

5 ROBERTS BROUSSARD

6 having been called for examination by Counsel for the Defendant,
7 and having been first duly sworn, was examined and testified as
8 follows:

9 JUDGE SIPPEL: The witness is on the stand and sworn in.
10 We're on the record?

11 MR. GORDON: Yes, Your Honor.

12 JUDGE SIPPEL: Your next witness.

13 MR. GORDON: Thank you.

14 We called Mr. Broussard who has introduced himself to
15 Your Honor already, and I'm ready to launch in, if you are, Your
16 Honor.

17 JUDGE SIPPEL: We're like old friends. So, you're right.
18 We're ready to go.

19 (Laughter.)

20 DIRECT EXAMINATION

21 BY MR. GORDON:

22 Q Good afternoon, Mr. Broussard.

23 Can you tell us where you are employed?

24 A Yes. I'm employed at AMC Networks.

25 Q And what is AMC Networks?

1 A AMC Networks is a company that owns and operates a number
2 of cable networks in the United States and, also, owns and operates
3 a number of cable networks throughout 138 countries
4 internationally.

5 Q Okay. Let's focus on the ones in the United States.
6 Could you tell the judge which networks those are?

7 A Yes. So, the domestic networks are AMC, WE tv, IFC,
8 Sundance, and we recently acquired a controlling interest in BBC
9 America.

10 JUDGE SIPPEL: BBC America?

11 THE WITNESS: Yes, sir.

12 JUDGE SIPPEL: BBC America does not -- well, I guess it
13 does. Does it advertise?

14 THE WITNESS: It does have advertising, yes.

15 JUDGE SIPPEL: But not much?

16 THE WITNESS: Yes, that is true.

17 JUDGE SIPPEL: Okay. All right.

18 THE WITNESS: Yes.

19 JUDGE SIPPEL: WE tv, Sundance, BCC, and you had one
20 other.

21 THE WITNESS: It was IFC. IFC.

22 JUDGE SIPPEL: IFC?

23 THE WITNESS: Yes.

24 JUDGE SIPPEL: What is IFC?

25 THE WITNESS: So, IFC is a channel that carries a lot of

1 independent film and it also carries a lot of comedy-oriented
2 original programming.

3 JUDGE SIPPEL: Okay, and that's on the domestic side?

4 THE WITNESS: That is correct.

5 JUDGE SIPPEL: And there's called a foreign side or the
6 non --

7 THE WITNESS: Yes. So, internationally --

8 JUDGE SIPPEL: Internationally?

9 THE WITNESS: So, AMC is distributed in Canada. And
10 then, about a year ago, we acquired a company called Cello Media.
11 And Cello Media operates dozens of channels in about 138 countries
12 throughout the world.

13 JUDGE SIPPEL: Is that like the musical instrument?

14 THE WITNESS: It's a whole --

15 JUDGE SIPPEL: No, how do you spell it?

16 THE WITNESS: Oh, Cello, it's C-E-L-L-O, Media. And we
17 have since changed the name to AMC International.

18 JUDGE SIPPEL: So, it might get confused with Jello.

19 THE WITNESS: Yes.

20 JUDGE SIPPEL: So, you're going to change it to what?

21 THE WITNESS: So, we changed it to AMC International.

22 JUDGE SIPPEL: It has more pizzazz to it.

23 THE WITNESS: Thank you.

24 JUDGE SIPPEL: AMC International. Okay.

25 THE WITNESS: We thought it was good to use the strong

1 brand name "International".

2 BY MR. GORDON:

3 Q Mr. Broussard, I just want to make sure that I have the
4 list down. You mentioned WE tv?

5 A Yes.

6 Q IFC?

7 A Yes.

8 Q Sundance?

9 A Yes.

10 Q Did I --

11 JUDGE SIPPEL: BBC America.

12 MR. GORDON: BBC America. Thank you, Your Honor.

13 THE WITNESS: And AMC.

14 BY MR. GORDON:

15 Q And AMC Network?

16 A That is correct.

17 Q And those are the domestic networks that AMC Networks own
18 and operate?

19 A That is correct.

20 Q Okay. Now, how long have you been at AMC Networks?

21 A I have been at AMC Networks for about 26 years.

22 Q Okay. So, roughly, since 1989?

23 A That is correct.

24 Q Okay. And what is your current job?

25 A Today I am President of Distribution for AMC Networks.

1 Q Okay. And how long have you held that job?

2 A I've held this position since 2006.

3 Q And what are your job responsibilities as President of
4 Distribution?

5 A So, I oversee a team that is responsible for interfacing
6 with our MVPD partners that distribute our networks throughout the
7 United States and they distribute AMC in Canada. So, our team
8 oversees those relationships with our distribution partners and is
9 responsible for any renewal conversations with our distribution
10 partners.

11 Q And when you talk about distribution, what are you
12 talking about?

13 A We are talking about cable operators, teleco companies,
14 and satellite companies that carry our networks on their
15 distribution platforms. So, they have subscribers. We license our
16 networks to the MVPDs or the distributors, and they, in turn,
17 distribute our networks to their customers.

18 Q Terrific.

19 MR. GORDON: Your Honor, I would like to approach and
20 hand the witness the set of exhibits.

21 JUDGE SIPPEL: Is that one for him and one for me or is
22 that --

23 MR. GORDON: Yes.

24 JUDGE SIPPEL: -- both for him?

25 MR. GORDON: Yes, we distribute it to everyone.

1 JUDGE SIPPEL: All right. Thank you. Thank you.

2 MR. GORDON: To mix it up, Your Honor, instead of a
3 binder, we did a spiral here.

4 JUDGE SIPPEL: You've got to distinguish these witnesses
5 some way.

6 (Laughter.)

7 You've got so many witnesses and so many binders.

8 Okay, let's go.

9 (Whereupon, the document was marked as CV Exhibit No. 339
10 for identification.)

11 BY MR. GORDON:

12 Q I'm showing you what has been marked as Cablevision
13 Exhibit 339, which is the first document before the tabs. And can
14 you just identify that for the record?

15 A Yes. This is direct testimony, my direct testimony that
16 has been filed in this case.

17 Q Okay.

18 MR. GORDON: And at this time, I would like to offer 339.

19 MR. SCHMIDT: As I understand it, the objections we have
20 have been overruled. So, no objections.

21 JUDGE SIPPEL: Well, then, CV Exhibit 339 is received in
22 evidence.

23 (Whereupon, the document marked as CV Exhibit No. 339 for
24 identification was received in evidence.)

25 BY MR. GORDON:

1 Q Let's talk about the 2009-2011 time period, Mr.
2 Broussard. And you told us that you're head of Distribution. What
3 is your specific involvement in terms of distribution efforts for
4 WE tv?

5 A My team is responsible for distribution of WE tv.

6 Q Okay. And in terms of distribution and your interfacing
7 with these MVPDs, as you explained earlier, how would you describe
8 WE tv to these MVPDs?

9 A Yes. So, WE tv is a women's network that is focused on
10 and programmed to appeal to women in the age group of 18 to 49 and
11 25 to 54 and, in fact, is viewed by those demographic groups.

12 Q I'd like to show you what has been marked as Cablevision
13 124, which is a document in the spiral binder towards the back.

14 A 124?

15 Q 124. Yes, CV Exhibit 124.

16 A Okay. Yes.

17 Q All right. I'm just going to wait until everybody gets
18 there.

19 (Pause.)

20 MR. GORDON: And we're looking at CV Exhibit 124, which
21 is towards the back end of it, Your Honor.

22 JUDGE SIPPEL: I've got it.

23 MR. GORDON: Okay.

24 JUDGE SIPPEL: I've got it.

25 BY MR. GORDON:

1 Q And if you flip the page to what's behind the email, sir,
2 can you tell us what this document is?

3 A Yes. This was a presentation of WE tv that was created
4 for Charter Communications, which is one of our MVPD distribution
5 partners.

6 Q Okay. And what is the purpose of Cablevision Exhibit
7 124?

8 A There are many purposes, but it is to demonstrate the
9 value that our network provides to the MVPD, to make sure that the
10 MVPD is sort of up-to-date on what the network is doing with its
11 programming.

12 Q Okay. And if you turn to page 5 of 20 --

13 A Yes.

14 Q -- there's a reference on that page to highest delivery
15 against women 18-49 and 25 to 54. And then, if you flip the page,
16 there is a chart demonstrating some information regarding those two
17 graphics, and that chart is entitled "Best Year Ever for WE tv".
18 What is the purpose in presenting this type of information to the
19 MVPD?

20 A Yes. So, this information is designed to demonstrate how
21 WE tv resonates with its target audience, which are, again, women
22 18 to 49 and women 25 to 54. And, you know, the chart on I guess
23 it's 6 of 20 demonstrates the payoff of the substantial investment
24 that WE tv has made in original programming that targets exactly
25 this demo, and it demonstrates results. Year-on-year growth is

1 pretty dramatic from 2005 to 2009.

2 Q Now I've only put one, this chart or presentation, before
3 you, but if you flip through, is this pretty consistent with how
4 you describe WE to your MVPD distributors?

5 A It's very consistent, that we really focus on the fact
6 that WE super-serves its target audience, which are women 18 to 49
7 and 25 to 54.

8 Q Okay. In any of your presentations, would you present
9 these MVPDs with information that would indicate that you were
10 skewed towards any other demographic other than these women 18 to
11 49 and 25 to 54?

12 A No.

13 Q Now --

14 JUDGE SIPPPEL: Is that the right terminology? I thought
15 skewed meant, just by the nature of things, women are skewed more
16 than men as a generic. But, when you get into this 25 to 54, it is
17 going to confuse things if you refer to that as skewing because
18 that is not skewing.

19 MR. GORDON: I take your point, Your Honor. I think if
20 I could ask the question again --

21 JUDGE SIPPPEL: Sure. Please do.

22 MR. GORDON: Sure.

23 BY MR. GORDON:

24 Q In your presentations to MVPDs, do you recall ever
25 providing data to an MVPD that would indicate that you are not, to

1 use your phrase, super-serving these two demos, women 18 to 49 and
2 women 25 to 54?

3 A No.

4 Q Let's take a moment to discuss the written agreements
5 that were executed when you had a deal with an MVPD -- I'm sorry --
6 when you reached a deal with an MVPD. Were you generally in your
7 role as head of Distribution familiar with the terms of the
8 affiliation agreements that WE tv entered into?

9 A Yes.

10 Q Okay. Now do those affiliation agreements typically say
11 something about the network's programming content?

12 A Yes, they do.

13 Q Okay.

14 A Yes, they do. So, you know, as part of our sales pitch
15 to our MVPD partners, we focus very heavily on the fact that we
16 super-serve this particular target. And so, the operators, not
17 surprisingly, say, "Okay, so I'd like to see it in writing. And
18 so, can you commit to that in the agreement, so it's very clear
19 what it is that I'm paying a license fee for?"

20 Q And then, based on your industry knowledge, do networks
21 typically get held to these types of provisions?

22 A Yes.

23 Q Now, if you look at CV Exhibit 26, which is sort of
24 midway through --

25 A Yes.

1 JUDGE SIPPEL: I see it.

2 BY MR. GORDON:

3 Q Can you just identify for the record what this document
4 is?

5 A Yes. This is an affiliation agreement between WE tv and
6 one of our MVPD distribution partners.

7 Q And was this agreement in effect during the relevant
8 timeframe, 2009 to 2011?

9 A Yes.

10 Q Okay. Now, sir, if you turn to page 3 of the document --

11 A Yes.

12 Q Okay. There's a definition of the word "service". Do
13 you see that?

14 A Yes.

15 MR. GORDON: Now, Your Honor, at this moment I'm going to
16 pause. This would be confidential. So, I am going to show the
17 witness the language. I'm going to identify what it is. We can
18 all read it, but I'm not going to read it into the record, so we
19 don't have to close the courtroom, if that's okay with everybody.

20 JUDGE SIPPEL: That makes sense.

21 MR. GORDON: Okay.

22 BY MR. GORDON:

23 Q So --

24 A So, this is designed to give the MVPD assurance that this
25 is a description of the network that they are paying a license fee

1 for. And this is what it is designed to do, to make it clear that
2 this is a women's network created for and designed to attract and
3 appeal to a female audience.

4 JUDGE SIPPEL: Well, is that -- you mean you're
5 describing the document in general?

6 THE WITNESS: This particular definition sets out what
7 the service is, is supposed to be.

8 JUDGE SIPPEL: Service incorporates just what you
9 explained?

10 THE WITNESS: Yes.

11 JUDGE SIPPEL: The word "service" --

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: -- as defined? Thank you.

14 THE WITNESS: Yes.

15 BY MR. GORDON:

16 Q And was this type of language consistent with how WE tv
17 was described in other affiliation agreements during the relevant
18 time period?

19 A Yes. Yes, it was.

20 Q And I will just refer you to CV 14.

21 A Okay.

22 Q And this is another example of an affiliation agreement
23 during the 2009-2011 timeframe?

24 A Yes. This is an affiliation agreement between WE and
25 another MVPD distribution partner.

1 Q Okay. And if you look at 3A, do you see that, "Content
2 of the Service"?

3 A Yes.

4 Q Again, I'm not going to read it out loud, but that's
5 another type of --

6 A That is another provision designed to give the MVPD
7 assurances that what they're licensing is a women's network.

8 Q Okay. So, we've talked about distribution. I'm sorry.
9 We have talked about presentations to MPVDs and actual agreements.
10 And now, I want to turn to the issue of WE tv's carriage on
11 Cablevision.

12 And first, let me ask you, what tier is Cablevision on?

13 A What tier --

14 Q I'm sorry, what tier is WE tv on?

15 A So, WE tv is on a tier generally known as expanded basic.

16 Q Okay. And just so there's no confusion -- it's come up
17 with other witnesses -- but what is expanded basic?

18 A Expanded basic might best be described as the second-most
19 highly-penetrated level of service. It's essentially received by
20 all subscribers other than subscribers that only receive local
21 broadcast channels, government-related networks, informational
22 networks like C-SPAN possibly. But it is the first sort of robust
23 package of cable networks.

24 JUDGE SIPPEL: What about the Arts Channel? Do you get
25 that at basic, too?

1 THE WITNESS: The Arch?

2 JUDGE SIPPEL: Arts, A-R-T-S.

3 THE WITNESS: I don't know. I'm actually not familiar
4 with the Arts Channel.

5 JUDGE SIPPEL: It's been on for years and years and years
6 on everything that I've had. It simply is a channel that's paid
7 for, I think, by a commonality of distributors, networks, whatnot,
8 and it just plays these old classical music.

9 THE WITNESS: Yes.

10 JUDGE SIPPEL: It's just old -- I believe some current
11 stuff, too, but, basically, the older stuff, and it's classical.
12 It's almost exclusively classical. But there's no ads on it, and
13 it says right on it this is put together by the industry,
14 basically, often by the industry.

15 THE WITNESS: Okay.

16 JUDGE SIPPEL: And it's always been that way. You don't
17 have that or just don't carry it?

18 THE WITNESS: You know, I'm just not familiar. I'm just
19 not familiar with it. Your tastes are probably more refined than
20 mine.

21 JUDGE SIPPEL: I don't think that's true.

22 (Laughter.)

23 It doesn't have anything to do with refinement. It's a
24 cheap way to spend the day if it's raining outside.

25 (Laughter.)

1 I'm sorry. I'm sorry. Check me out, though. See if you
2 have it.

3 THE WITNESS: I will. I definitely will.

4 JUDGE SIPPEL: Go ahead, sir.

5 BY MR. GORDON:

6 Q And do cable subscribers typically pay for the expanded
7 basic tier?

8 A Yes.

9 Q Now in the 2009 to early 2011 timeframe, AMC was part of
10 Cablevision, right?

11 A Yes.

12 Q Okay. And did all of AMC's networks, WE tv, IFC,
13 Sundance, AMC, during this 2009-to-2011 timeframe get carried on
14 expanded basic tier?

15 A No, they did not.

16 Q Okay. Can you explain which networks were carried on --

17 A Sure. So, AMC and WE were carried on expanded basic and
18 IFC and Sundance were carried on digital basic.

19 JUDGE SIPPEL: On digital what?

20 THE WITNESS: Digital basic. So, that's the next most
21 highly-concentrated package, and I think it had a penetration of
22 somewhere in the neighborhood of percent.

23 MR. SCHMIDT: Can I just ask a question? Is this in his
24 direct? If it is, I won't squawk, but I didn't recall it from his
25 direct.

1 MR. GORDON: I think it is, but if you would give me a
2 second, I'll take a look for it.

3 JUDGE SIPPEL: I want to hear it, anyway.

4 MR. GORDON: Okay. It's paragraph 10.

5 MR. SCHMIDT: Paragraph 10. Appreciate that. Thank you.

6 MR. COHEN: At the end.

7 MR. SCHMIDT: Got it. Thank you.

8 JUDGE SIPPEL: Except he won't have any reference to the
9 Arts Channel.

10 (Laughter.)

11 MR. SCHMIDT: That does not go there, Your Honor.

12 JUDGE SIPPEL: I just want to give you advance notice.

13 MR. SCHMIDT: We've established that.

14 MR. COHEN: We're all going to be watching it tonight,
15 Your Honor.

16 JUDGE SIPPEL: Oh, I'm sure you will. I'm sure you will
17 with a warm glass of milk and a bowl of crackers.

18 (Laughter.)

19 Come on.

20 BY MR. GORDON:

21 Q And are those networks today on the tier?

22 A Despite repeated efforts, no. They're still on a
23 different basic.

24 Q Okay. In the course of your job, do you have occasion to
25 negotiate with Cablevision over terms of carriage for the networks?

1 A Yes.

2 Q And can you give the judge a sense of what that is like?

3 A Yes. They are very seasoned, sophisticated, and very
4 tough negotiators.

5 Q In the 2009-2011 timeframe, did the fact that AMC or
6 Rainbow was part of the Cablevision conglomerate help you at all in
7 terms of your negotiations?

8 A I would say that it did not. I would say that they were
9 arms' length, hard-core negotiations.

10 Q And let's focus on WE tv. In your view, did WE tv
11 receive better terms of carriage due to the fact that AMC was owned
12 by Cablevision?

13 A In my view, it did not receive better terms of carriage
14 because of the relationship with Cablevision.

15 Q I'd like to look and talk about the terms that WE tv
16 received from Cablevision as compared to other distributors. If
17 you turn to page 12 of your direct testimony -- I'm sorry --
18 paragraph 12 of your direct testimony, which is on page 4 --

19 (Pause.)

20 And the information itself is confidential.

21 A Yes.

22 Q So, I'm not going to ask you to give the numbers her on
23 this chart. But this chart is discussing WE tv's penetration
24 levels on Cablevision as compared to the penetration levels on
25 other MVPDs.

1 A Yes.

2 Q And before I ask you to describe what the chart shows
3 without giving the numbers, just tell us what penetration level
4 means.

5 A Oh, so penetration level, if you are looking at the total
6 subscriber base of a given MVPD, 100 percent of their subscribers,
7 whether they get a lifeline or expanded basic or a more robust
8 package of programming service, it is really every subscriber that
9 receives any television service from the MVPD represents 100
10 percent. The penetration means what penetration of that 100
11 percent your given network is received by.

12 Q Okay. And as a general matter -- again, without getting
13 into numbers -- what does this chart show?

14 A So, this chart shows that the penetration of WE tv on the
15 Cablevision platform was comparable and consistent with the
16 penetration on other platforms of major MVPDs. There was one
17 outlier here. And, you know, you keep working and you keep doing
18 the best you can, and eventually, we did get that outlier to sort
19 of conform to the penetration levels here.

20 Q What about Cablevision, the rates? Can you explain how
21 they compared with the rates paid by other MVPDs, again, without
22 giving specifics?

23 A Yes. So, the rates paid by Cablevision, again, were very
24 consistent with rates paid by other MVPDs for WE tv, by other major
25 MVPDs.

1 JUDGE SIPPEL: Are these the license fees?

2 THE WITNESS: These are the license fees.

3 JUDGE SIPPEL: So, consistent with its competition,
4 basically?

5 THE WITNESS: Yes.

6 JUDGE SIPPEL: When I say "its," I mean with
7 Cablevision's competition.

8 THE WITNESS: That is correct.

9 BY MR. GORDON:

10 Q

But, before I get into it, I
12 do think that this is an area that we should mark confidential.

13 JUDGE SIPPEL: You want people out?

14 MR. GORDON: I think everybody is out. I mean, is
15 everybody --- okay.

16 (OPEN SESSION ENDS)

17 (CLOSED SESSION BEGINS)

18 JUDGE SIPPEL: Let's go.

19 MR. GORDON: Okay.

20 BY MR. GORDON:

21 Q

22 A

23

24

25

1

2 Q

3

4 A

5 Q

6

7 A

8 Q

9 A

10 Q

11 A

12 Q

13

14

15 A

16 Q

17

18

19 A

20

21

22

23

24

25

1

2

3

4

5 JUDGE SIPPEL:

6 THE WITNESS:

7

8

9 BY MR. GORDON:

10 Q

11 A

12 Q

13 A

14

15

16

17

18

19

20

21

22

23 JUDGE SIPPEL: Now that was WE tv paid a management fee
24 to Cablevision?

25 THE WITNESS: To Cablevision.

1 JUDGE SIPPEL: And was that an arms' length negotiation?

2 I mean the agreement to do the management fee.

3 THE WITNESS: Yes. So, that arrangement goes back many
4 years. And I'm, frankly, not sure of the genesis. All I know is
5 it was a payment that WE tv had paid to Cablevision for many years.

6 JUDGE SIPPEL: Is it paid annually?

7 THE WITNESS: Paid annually.

8

9 JUDGE SIPPEL:

10 THE WITNESS:

11 JUDGE SIPPEL:

12

13 THE WITNESS:

14

15 JUDGE SIPPEL:

16

17

18

19 THE WITNESS:

20 JUDGE SIPPEL:

21 THE WITNESS:

22

23 JUDGE SIPPEL:

24 THE WITNESS:

25 JUDGE SIPPEL:

1 THE WITNESS:

2

3

4

5

6 JUDGE SIPPEL:

7

8

9

10

11 THE WITNESS:

12

13 JUDGE SIPPEL:

14 THE WITNESS:

15 JUDGE SIPPEL: MFNs are not uncommon?

16 THE WITNESS: MFNs are not uncommon. There were a number

17 of programming groups that do give MFNs and there were a number of

18 programming groups that do not. I mean, they really are a

19 challenge because they can paralyze a programmer when they are in

20 negotiations, and they are very difficult and complicated to apply.

21 And so, for example, I think DISH Network recently sued ESPN over

22 the application of MFNs, and they were tied up in litigation for

23 two or three years. So, they're really a nightmare.

24 JUDGE SIPPEL: And who does it hurt the most?

25 THE WITNESS: I think it's difficult, it is really a

1 challenge for the programmer to --

2 JUDGE SIPPEL: Yes.

3 THE WITNESS: -- operate and get deals done when they
4 have to work within parameters of an MFN. It can sort of put you
5 in a straitjacket when you're negotiating because you're afraid
6 that you might trigger something, and you're constantly evaluating,
7 well, what's this deal say; what's that deal say? Well, what if we
8 give this value? How do you measure certain value that is
9 exchanged from one side to the other? You know, no two deals are
10 alike, and it's really difficult to compare one deal to another.
11 While a rate may be lower, you know, the operator may be getting
12 more value someplace else.

13 JUDGE SIPPEL:

14

15

16

17

18 THE WITNESS:

19

20

21 JUDGE SIPPEL:

22

23 THE WITNESS:

24

25

1

2

JUDGE SIPPEL:

3

THE WITNESS:

4

5

6

7

JUDGE SIPPEL:

8

9

THE WITNESS:

10

11

JUDGE SIPPEL:

12

THE WITNESS:

13

14

15

JUDGE SIPPEL:

16

THE WITNESS:

17

18

19

20

21

22

23

24

25

JUDGE SIPPEL:

1

2

BY MR. GORDON:

3

Q

4

5

6

A

7

Q

8

A

9

Q

10

A

11

Q

12

A

13

Q

14

15

A

16

Q

17

18

A

19

Q

20

21

A

22

Q

23

A

24

Q

25

1

2 A

3

4

5

6

7

8

9

10 Q

11 JUDGE SIPPTEL:

12

13

14 MR. GORDON:

15 THE WITNESS:

16

17

18

19

20

21

22

23 JUDGE SIPPTEL:

24 BY MR. GORDON:

25 Q

1

2

3 A

4 Q

5

6 A

7 Q

8

9 A

10

11

12

13

14

15

16

17

18 JUDGE SIPPEL: Do these questions, these difficulties
19 ever get sent to arbitration? I mean, would the parties agree to
20 have an arbitrator in a proceeding?

21 THE WITNESS: I'll bet that there probably have been.
22 And as I mentioned, you know, DISH Network did sue because they
23 felt that ESPN breached their MFN.

24 And so, I'm not sure how these disputes are resolved in
25 other places, but they are ripe for conflict. They really are.

1 JUDGE SIPPEL: Okay.

2 BY MR. GORDON:

3 Q

4

5

6 A

7 Q

8 A

9 Q

10

11 A

12 Q

13

14 A

15 Q I want to turn to Wedding Central, if I can. What was
16 Wedding Central?

17 A So, Wedding Central was a network that we launched in or
18 about 2009 that focused on wedding programming and programming
19 related to weddings, relationships, families. And wedding
20 programming had performed so well at WE tv, we felt very confident
21 that that very highly-targeted genre could support an entire
22 network.

23 Q Do you think it would be valuable to your distribution
24 partners?

25 A Yes, I do, actually.

1 Q And what was your role with respect to the distribution
2 of Wedding Central?

3 A My team was responsible for gain in distribution of
4 Wedding Central.

5 Q Okay. And what MVPDs ultimately carried Wedding Central?

6 A Ultimately, Cablevision and Time Warner Cable and
7 Mediacom.

8 Q Okay. And with regard to Time Warner Cable, was it
9 nationwide?

10 A No. Time Warner just launched in Manhattan.

11 Q And do you know how many subscribers at the time?

12 A Ballpark, just north of a million subscribers in
13 Manhattan.

14 Q Okay. What tier did these distributors carry Wedding
15 Central on?

16 A Each of those three I believe distributed Wedding Central
17 on digital basic.

18 Q Were the terms

19 A The terms --

20 Q Of carriage?

21 A The terms of carriage were

22 Q Okay. How would you describe your negotiations with
23 Cablevision regarding the carriage of Wedding Central?

24 A Tough. They were very tough.

25 Q Why so?

1 A Well, here we are, we're launching a new network. We
2 really think it's a valuable thing that could create tremendous
3 volume for our distribution partners, and

4

5

6

7

8

9

10

11

12

13 Q

14

15 A

16 Q

17 A

18

19 Q

20

21 A

22 Q

23 A

24

25

1

2

3

4

5

6

7 Q Subsequently, how did Wedding Central fare?

8 A Unfortunately, we couldn't get enough traction on the
9 distribution front, and I believe sometime in 2011 Wedding Central
10 was shut down.

11 Q

12

13 A

14 Q

15 A

16

17 Q Okay. Now let me shift gears to the retiering of the
18 GSN. Did you have any role in Cablevision's decision to retier the
19 Game Show Network?

20 A No.

21 Q When did you first become aware of that decision?

22 A I became aware of the decision sometime in December 2010.

23 Q Okay. And how did you become aware of the decision?

24 A I became aware of the decision from Josh Sapan, who is
25 the CEO of AMC networks.

1 Q And do you recall what Mr. Sapan told you?

2 A Yes. So, Mr. Sapan told me that Derek Chang, who was a
3 senior executive at DIRECTV, had reached out to Tom Rutledge and in
4 sum or substance said, you know, can DIRECTV help solve the GSN
5 issue? And so, Tom asked us at Rainbow what issues do we have with
6 DIRECTV, and with the idea that, if we could make progress on some
7 of the issues on the Rainbow/DIRECTV front, that might have a
8 favorable impact on the GSN situation.

9 Q Okay. Did you know who Mr. Chang was at the time?

10 A Very well.

11 Q Had you spoken to Mr. Chang before?

12 A Yes, repeatedly. I had an ongoing relationship with
13 Derek for a long time.

14 Q Had you been speaking to Mr. Chang prior to the retiering
15 decision about carriage of Wedding Central?

16 A I was talking to Mr. Chang on an ongoing basis about a
17 number of issues, including carriage of Wedding Central.

18 MR. GORDON: I apologize, Your Honor. It's been pointed
19 out that the courtroom should be opened since

20

21 JUDGE SIPPEL: Pursue it. Pursue it. Let them in.

22 (CLOSED SESSION ENDS)

23 (OPEN SESSION BEGINS)

24 BY MR. GORDON:

25 Q So, did you subsequently, after Mr. Sapan told you about

1 the retiering, did you subsequently have any discussions with Mr.
2 Chang?

3 A Yes. So, over a period of about two or three months in
4 late 2010, leading into 2011, we did have a series of conversations
5 in which we attempted to make progress on the DIRECTV AMC issues.

6 Q What issues did you put on the table with Mr. Chang?

7 A So those issues included getting carriage for Wedding
8 Central,

9

10

11

12

13 And then we were also
14 talking -- I mean we really just wanted to make it work and so we
15 were trying to provide as much value as we could, that included
16 exploration of providing

17

18 So, there were a whole
19 host of value exchanges that we were discussing with Derek.

20 Q Did you ever tell Mr. Chang, in words or substance, that
21 if DIRECTV carried Wedding Central, Cablevision would change the
22 retiering decision?

23 A No.

24 Q Would you have had the authority to?

25 A I would not have had the authority to do that.

Q Did anybody at Cablevision instruct you to make a deal
where if Wedding Central was carried by DIRECTV, Cablevision would

1 reverse the retiering decision?

2 A No, Cablevision had their own negotiations going on with
3 the Game Show Channel.

4 Q Was it your understanding that DIRECTV agreeing to
5 carrying Wedding Central would have affected Cablevision's
6 retiering decision?

7 A I think it might have cast a favorable light on the
8 discussions that Cablevision was having with Game Show Network.
9 So, it could have helped. And I think that is why Derek approached
10 Tom to say is there something we can do to help.

11 JUDGE SIPPEL: Derek is Mr. Chang.

12 THE WITNESS: Derek is Mr. Chang. I'm sorry.

13 JUDGE SIPPEL: Tom is Mr. Rutledge?

14 THE WITNESS: Yes, sorry.

15 JUDGE SIPPEL: He was the last manager.

16 MR. SCHMIDT: I'll object to the last answer about Mr.
17 Chang's mental state. I don't think that is appropriate.

18 JUDGE SIPPEL: Okay. Let's try it again.

19 THE WITNESS: Okay, so Mr. Chang approached Mr. Rutledge
20 about the GSN issue. And --

21 JUDGE SIPPEL: Meaning retiering.

22 THE WITNESS: Yes, correct. And Mr. Chang represents
23 DIRECTV that doesn't have any direct business with Cablevision.
24 So, it was really about the DIRECTV-Rainbow relationship.

25 BY MR. GORDON:

1 Q What resulted from your conversations with Mr. Chang
2 about the --

3 A So, we had a lot of back and forth, a lot of constructive
4 conversations. Ultimately, Mr. Chang said that he wasn't
5 interested in carrying Wedding Central. He said that -- at some
6 point, he said DIRECTV no longer wishes to contribute to the GSN
7 solution but Bob, we are happy to continue talking with you about
8 the issues that we have been discussing.

9 Q And did you continue talking with Mr. Chang about those
10 other issues?

11 A Yes.

12 MR. GORDON: I have nothing further.

13 MR. SCHMIDT: Okay, let me start -- may I start, Your
14 Honor?

15 JUDGE SIPPEL: Sure.

16 CROSS-EXAMINATION

17 BY MR. SCHMIDT:

18 Q Let me start, if I may, Mr. Broussard, with a couple
19 small points. You talked about

20

21 A

22 Q

23

24 A

25 Q

1 A

2 Q

3

4

5 A

6

7

8

9 Q

10

11

12 A

13

14 Q

15 A

16 Q

17

18 A

19

20

21 Q

22 A

23 Q Okay. You were asked some questions about targeting

24 certain age demographics, women in two different age demographics.

25 Do you recall that?

1 A Yes.

2 Q You were not meaning to suggest that WE tv does not care
3 about other age demographics, were you?

4 A No.

5 Q For example, you are familiar with the fact that WE tv
6 tracks bilateral demographics.

7 A Yes, I think all networks look at total viewership, which
8 includes all ages.

9 Q In fact, even in the document you cited, you are aware,
10 if you look at CV 124, the very page you were looking at, page 6 of
11 20, right below reporting on the best year ever for WE tv, tell me
12 when you are there.

13 A Okay. What page are you on?

14 Q I'm in Exhibit 124 --

15 A I've got the exhibit.

16 Q Yes, 124. I can't read upside down.

17 A Okay, I got that. I'm with you.

18 Q Page 6 of 20, the bar graph, with the women of the
19 demographics you were talking about.

20 A Yes. Yes.

21 Q Do you see right below the heading best year forever for
22 WE tv, also true for household rating women two plus, and two plus
23 deliveries.

24 A Yes, sir.

25 Q And so we are clear, that is all persons above the age of

1 two. Right?

2 A Yes.

3 Q Kids and elderly people.

4 A That is correct.

5 Q And that is all women above the age of two.

6 A It is women two plus and all people two plus.

7 Q That doesn't make you any less of a women's network
8 because you tracked those two. Yes or no?

9 A Yes.

10 Q Maybe I am phasing my question bad. Does that make you
11 any less of a women's network because you tracked those other
12 demographics?

13 A Because we track total viewership does not make us less
14 of a women's network.

15 Q Okay.

16 JUDGE SIPPEL: Did you get that answer? Ms. Reporter,
17 did you get that answer?

18 COURT REPORTER: Yes, I did.

19 BY MR. SCHMIDT:

20 Q Now, let's talk about your role and I just want to make
21 sure I have it clear. Since early 2006, you have been President of
22 Distribution at Rainbow. Your title has changed, I guess, with the
23 new entity in 2011. Right?

24 A Yes.

25 Q During that entire time, you have been responsible for

1 securing carriage for WE tv with MVPDS.

2 A Yes.

3 Q And during the entire life of Wedding Central, you were
4 responsible for securing carriage of Wedding Central with MVPDS.

5 A In fact, I think you would agree with me that if I were
6 to ask you who is the most knowledgeable person about carriage
7 during that time period for WE tv and Wedding Central, it is you.

8 A Yes, I would say I am. Yes, sure.

9 Q Now, you didn't work on the cable side at Cablevision.
10 True?

11 A That is correct.

12 Q In fact, it wasn't part of your job to negotiate on
13 behalf of the cable side as to which networks they would carry.

14 True?

15 A That is correct.

16 Q You were supposed to be separate company, separately
17 operated. Right?

18 A Yes.

19 Q And you make a point of that. I think you made a point
20 of that with the judge and you make a point of that in your direct
21 testimony, right, of saying that they were separate companies and
22 your negotiations were arm's length?

23 A Yes.

24 Q Let's take a look at that. If you look at paragraph 21
25 -- I guess I should give you your binder. You get a second binder.

1 A All right! I was hoping.

2 MR. SCHMIDT: Your Honor, may I approach?

3 JUDGE SIPPEL: You certainly may.

4 MR. SCHMIDT: I'm not sure this is actually bigger, if
5 you crunch those altogether, but it is a separate binder. You can
6 refer to this as the binder of truth.

7 (Laughter.)

8 BY MR. SCHMIDT:

9 Q Look, if you would, with me -- you will see this is
10 organized by exhibit number. Of course the Cablevision exhibit in
11 the beginning, which is your direct testimony and we mention GSN
12 exhibits.

13 A Mine is in the middle some place.

14 Q Okay, well, can you find Cablevision 339?

15 A Sure.

16 Q It seems I have a special version of the binder.

17 JUDGE SIPPEL: Cablevision 139?

18 MR. SCHMIDT: It's 339. I believe, in everyone else's
19 binder, it is in the back.

20 JUDGE SIPPEL: I see it.

21 MR. SCHMIDT: But don't trust me to find it in the back.

22 MR. COHEN: Second to the last document.

23 MR. SCHMIDT: Second to the last document. Thank you.

24 BY MR. SCHMIDT:

25 Q And when you are there --

1 A Okay.

2 Q You got it?

3 A Yes.

4 Q Okay, we are going to take a look at page 6, paragraph
5 21. In the first sentence, you make the point of saying, as you
6 said in your oral testimony today, my discussions with Cablevision
7 regarding carriage of Wedding Central were at all times arm's
8 length negotiations. Do you see that?

9 A Yes.

10 Q Look ahead, if you would, or earlier in the testimony to
11 page 3, paragraph 10. And in the third sentence in paragraph 10 on
12 page 3, right after the bracket, you say on the contrary, the terms
13 of carriage WE tv received from Cablevision were negotiated at
14 arm's length and

15 Did I read that correctly?

16 A Yes.

17 Q And you say that in response to the framing for that in
18 your testimony is your understanding that GSN claims that
19 Cablevision somehow favored WE tv because Cablevision and WE tv are
20 affiliated. Do you see that?

21 A Yes.

22 Q Why is it important to you that your negotiations with
23 Cablevision were arm's length?

24 A They just are.

25 Q Why does that matter?

1 A I don't understand the question.

2 Q Well, you pointed it out twice in your written testimony.
3 Right?

4 A Right.

5 Q Including to respond to allegations you understand we
6 have made. Right?

7 A Yes.

8 Q And then you pointed it out in your oral testimony.
9 Right? Is there a problem, in your view, with not having arm's
10 length negotiations with Cablevision?

11 A It is just a fact that the negotiations are arm's length.

12 Q Okay. If they weren't would that be a problem or are you
13 just reiterating a fact?

14 A In what respect?

15 Q In any respect.

16 A I would have to think about it.

17 Q Okay. Are you familiar with the law that we are here for
18 today, Section 616?

19 A Not intimately.

20 Q Okay, it is not something you have dealt with in your
21 role?

22 A No.

23 Q As negotiating carriage on behalf of the Rainbow
24 Networks?

25 A No.

1 Q Your background, as I understand it, is as a lawyer.
2 Correct?

3 A Yes.

4 Q And that is not something that you --

5 A As an M&A lawyer.

6 Q I'm sorry?

7 A M&A lawyer.

8 Q Okay. That's more knowledgeable than my kind of lawyer.

9 You don't have an understanding, as someone who works on
10 the content side at Cablevision as to what Section 616 is?

11 A Yes, I am not sure what Section 616 provides. No.

12 Q Are you aware that there is a law that says that MVPDs
13 cannot favor their affiliates or disfavor non-affiliates on the
14 basis of affiliation?

15 MR. GORDON: Objection.

16 BY MR. SCHMIDT:

17 Q Is that something you know about in your work at
18 Cablevision?

19 A Yes, I am not familiar with the section that you are
20 talking about.

21 Q Are you familiar with any law that says something like
22 what I just said?

23 JUDGE SIPPEL: Why don't you repeat it for him slowly?

24 MR. SCHMIDT: Sure.

25 THE WITNESS: Thank you.

1 MR. SCHMIDT: I don't know if I can.

2 BY MR. SCHMIDT:

3 Q Are you familiar with any law that says that an MVPD
4 cannot discriminate in the terms of carriage based on affiliation
5 or non-affiliation?

6 A Yes, I really can't say that I know what that law
7 provides.

8 Q Okay. And you have not heard the concept that I just
9 talked about?

10 A I suppose I have heard the concept, yes.

11 Q Is it something that has come into play in your work at
12 all?

13 A Not really.

14 Q Okay, let's look at exhibit --

15 A So, did I enlist the provision in my job?

16 Q No, have you come across that idea that MVPDs cannot
17 engage in discrimination on the basis of affiliation or non-
18 affiliation in terms of carriage conditions or terms?

19 A Yes, I suppose I am aware of the concept.

20 Q Okay. Is that why you make a point in your direct
21 testimony of saying that your negotiations with Cablevision were
22 arm's length?

23 A No, I didn't make the point because of the law. I made
24 the point because of the context.

25 Q Okay, let's look at Exhibit 16 in your binder.

1 MR. GORDON: GSN?

2 MR. SCHMIDT: GSN Exhibit 16, yes, please.

3 JUDGE SIPPEL: Is that in the spiral binder?

4 MR. SCHMIDT: No, this is still the big one.

5 JUDGE SIPPEL: Oh, the big one?

6 MR. SCHMIDT: I don't intend to do much with the spiral
7 binder, if anything.

8 JUDGE SIPPEL: What is it called now, 16?

9 MR. SCHMIDT: GSN Exhibit 16, Your Honor.

10 BY MR. SCHMIDT:

11 Q And tell me when you have that, sir.

12 A Okay, I do have it.

13 Q Do you see that this is an email from Kim Martin,
14 President of WE tv, to a number of individuals, including you, in
15 November 2008?

16 A Yes.

17 Q And do you see that she attaches a document to her email?

18 A Yes.

19 Q If you look at the document, which I think you are doing
20 already, it is a report prepared by Charlene Weisler. That is on
21 page two of the document. Correct?

22 A Yes.

23 Q Who is Charlene Weisler?

24 A Charlene Weisler, at the time, was in the Research
25 Department at Rainbow.

1 Q Okay, so Ms. Weisler at the Research Department, as you
2 see from her executive summary, she is looking at what is
3 Cablevision Set Top Box Data Reports. Do you see that on page two?

4 A Yes.

5 Q Let's take a look at that. I want to flip a little
6 further back in the document. If you look down in the bottom right
7 corner, you will see numbers. And I want to direct your attention,
8 if I may, to the page numbered 831 at the end. It is, I think, the
9 last page with writing on it in the document.

10 And do you see that there is a table here at the top that
11 has WE tv as the fifth or sixth entry?

12 A Yes.

13 Q And do you see that it reports WE tv's Nielsen rank and
14 Cablevision's set top box rack?

15 A Yes.

16 Q And it reports on the channel in Time Warner. Time
17 Warner, you know is also in the New York area of Cablevision.

18 A Yes.

19 Q And it reports on the Cablevision channel. Do you see
20 that?

21 A Yes.

22 Q Are you familiar with the idea of neighborhooding?

23 A Channel neighborhooding?

24 Q Yes.

25 A Yes.

1 Q What is that?

2 A That there is some benefit for a network -- there may be
3 some benefit for a network to be grouped with like kind networks.

4 Q Okay. Let's look at what she reports here about channel
5 placement of Cablevision versus Time Warner. Do you see that for
6 Cablevision WE tv is at 42, within a few numbers of Lifetime and
7 Bravo?

8 A Yes.

9 Q And do you see that for Time Warner, it is a 59 and it is
10 not close to Lifetime and not close to Bravo?

11 A Yes.

12 Q And then the data is Nielsen rank is but the
13 Cablevision rank is . Do you see that?

14 A The Nielsen rank is and the Cablevision set top box is
15 -- say it again. I'm sorry.

16 Q I think you were just about to say it. Nielsen is ,
17 Cablevision set top box is .

18 A I do see that.

19 Q And on the next page -- on the page before, do you see
20 the text at the bottom of that page? Ms. Weisler, the research
21 person at Rainbow writes neighborhooding seems to work. Do you see
22 that?

23 A Yes.

24 Q And she says in the next paragraph, jump down a
25 paragraph, the same is true for WE, Bravo, and Lifetime, which

1 perform comparably when they have neighborhooding channel
2 positions. WE greatly benefits from being placed near Lifetime and
3 Bravo on CBC. That is Cablevision, right?

4 A Yes.

5 Q So, she is saying when we are close to similar channels,
6 just like neighborhooding, we do better.

7 A Yes.

8 Q And that is what the set top box data where in the
9 Cablevision house you are according to set top box data and in
10 the larger New York area, you are . Right?

11 And if you are struggling, I can help you with this on
12 what the Nielsen is.

13 A Yes.

14 Q Look at the top. Top 25 --

15 A That is what I was talking about. Say it again?

16 Q -- Nielsen local rankings. That's what the data show.
17 The data shows in the Cablevision neighborhooding area, according
18 to set top box data, WE is . In general Nielsen in the New York
19 area, WE is . True?

20 A Okay, so that Nielsen rank is supposed to be for the New
21 York DMA?

22 Q Yes. Do you see on the preceding page it says top 25
23 ranked CBC set top box networks versus Nielsen local ratings rank.
24 Do you see that?

25 A Yes.

1 Q And then it has the same rankings down there, for
2 Nielsen local rank --

3 A Yes.

4 Q -- and for CBC.

5 A Yes.

6 Q So, let me try my question one more time, just so we have
7 it clean.

8 MR. GORDON: Slowly.

9 MR. SCHMIDT: I don't know if I can do that. I'm not
10 good at that.

11 MR. GORDON: Please.

12 JUDGE SIPPEL: Slow it down a bit. Slow it down.

13 BY MR. SCHMIDT:

14 Q She's reporting --

15 A Yes.

16 Q -- that where in the Cablevision footprint, where there
17 is favorable channel placement, neighborhooding, --

18 A Yes.

19 Q -- according to Cablevision set top box data, Cablevision
20 ranks . Correct?

21 A Yes.

22 Q And where Cablevision, when you look more broadly at the
23 New York area, which includes Time Warner, where that
24 neighborhooding doesn't exist in the same way, it performs less
25 strong at . Correct?

1 A Yes. It's a little bit of apples and oranges.

2 Well, let's, if you could do a Nielsen just in the
3 Cablevision footprint, you might get a different number than the
4 Cablevision set top box.

5 Q Let's look at the conclusions based on this data.

6 A Okay.

7 Q Look with me at the first page. And this is back to the
8 email that Ms. Martin sent to you.

9 JUDGE SIPPPEL: You're right after GSN 16?

10 MR. SCHMIDT: Yes, sir.

11 BY MR. SCHMIDT:

12 Q She writes, thought you guys would appreciate. See the
13 attached data. This is referencing Ms. Weisler's research data.
14 Correct?

15 A Yes.

16 Q Charlene found, that is Ms. Weisler, in the Cablevision
17 footprint, where WE is Channel 42 and Lifetime is Channel 45, WE is
18 in cable nets and Lifetime barely beats us in delivering
19 women viewers. Now, imagine if we had this good of channel
20 placement around the country but no pressure.

21 Do you see that?

22 A Yes.

23 Q She then goes on to say in the next paragraph, and I will
24 go to the second sentence in the next paragraph. It looks like it
25 should be and. And the reverse is true, too. Do you see where I

1 am reading from?

2 A Yes.

3 Q Getting WE moved to a better channel position is golden
4 because we can monetize the increased viewership on the ad sales
5 side. Do you disagree with that proposition?

6 A I don't disagree with the proposition that channel
7 placement can influence viewership.

8 Q And ad sales that can be monetized into ad sales.
9 Correct?

10 A If it impacts viewership, it will probably impact ad
11 sales as well.

12 Q The truth is, you didn't have that same good channel
13 placement that you enjoyed with Cablevision across the country.
14 Did you? It was more variable across the country.

15 A It varied from market to market. That is correct.

16 Q Let's take a look at an example of that. Look with me,
17 if you would at Exhibit 165, please.

18 JUDGE SIPPEL: GSN Exhibit 165 in the large binder.

19 MR. SCHMIDT: Yes, please, Your Honor.

20 JUDGE SIPPEL: From Kim Martin.

21 MR. SCHMIDT: Yes, please.

22 JUDGE SIPPEL: To Ed Carroll, Joshua Sapan.

23 MR. SCHMIDT: CC to Robert Broussard. Do you see that?

24 JUDGE SIPPEL: CC to Robert Broussard. I see that.

25 BY MR. SCHMIDT:

1 Q Do you see that Mr. Broussard?

2 A Yes, I do.

3 Q This is an email you received from Ms. Martin, President
4 of WE tv in January 2012. Correct?

5 A Yes.

6 Q I would like to focus your attention on the third
7 paragraph. She talks about a Comcast proposal and she says I
8 realize the Comcast proposal is

9

10

11 A

12 Q I bet that is something you get a lot where they ask you
13 to go and negotiate a better deal.

14 A A lot.

15 Q Okay.

16 A A lot.

17 Q This is your chance to say --

18 A Multiply it by five.

19 Q -- on the record how unfair it is.

20 A No, I would do the same in their position.

21 Q If you keep going, she says, and this is what I want to
22 focus on, another option is for Comcast to improve WE's channel
23 placement neighborhood. They have several big markets where WE has
24 bad channel placement like Channel 502 in San Francisco, Seattle,
25 Portland, et cetera, resulting in non-existent viewership. Is that

1 consistent with your understanding that in a number of important
2 Comcast markets, WE tv had very poor channel placement?

3 A Yes, about 25 percent of the Comcast footprint.

4 Q Do you agree with her -- maybe there is a little bit of
5 hyperbole, but do you agree with her generally that when you are at
6 Channel 502 in important markets, that results in non-existent
7 viewership?

8 A Yes. So, Channel 502 is a very high channel number and
9 these markets have a negative impact on viewership, I would say.

10 Q She goes on to say movement to a better neighborhood
11 would increase our viewership and we can monetize. And that is
12 that idea you talked about a few minutes ago. You agree with that
13 idea. Right?

14 A I agree that channel placement can definitely impact
15 viewership.

16 Q And if you can impact viewership, you can monetize that.

17 A Yes, sir.

18 Q You -- I don't mean you personally although I hope you,
19 personally, too, but you, as a company, believe that channel
20 placement matters

21

22 MR. COHEN:

23

24 MR. SCHMIDT:

25 MR. COHEN:

1 JUDGE SIPPEL: You are losing a lot.

2 MR. COHEN: So, we're going confidential.

3 MR. SCHMIDT: We are going confidential.

4 (OPEN SESSION ENDS)

5 (CLOSED SESSION BEGINS)

6 JUDGE SIPPEL: Thank you, ma'am.

7 THE WITNESS: Thank you.

8 BY MR. SCHMIDT:

9 Q

10

11

12 A

13 Q

14

15

16

17 A

18 Q

19

20

21

22 A

23 Q

24

25

1 A

2 Q

3 A

4

5 Q

6 A

7 Q

8 A

9 Q

10

11

12 A

13 Q Okay. And maybe I've misunderstood a document but let me
14 see if I can get it. Let's look at Exhibit 275. GSN Exhibit 275
15 in the big binder.

16 And on this one, let me give the judge a minute to catch
17 up because I want to make sure I have this right.

18 JUDGE SIPPPEL: Okay and what -- We're still on 165. Am
19 I behind you?

20 MR. SCHMIDT: Just one, I think, Your Honor.

21 JUDGE SIPPPEL: Okay, I'm getting better.

22 BY MR. SCHMIDT:

23 Q So do you see that Exhibit 275 is a June 2010 email from
24 Kim Martin?

25 A Yes.

1 Q And what I am focused on is the first sentence, which
2 states,

3

4

5

6 A

7 Q

8 A

9

10 Q

11 A

12 Q

13 A

14 Q

15 A

16

17 MR. SCHMIDT:

18 JUDGE SIPPEL:

19

20 THE WITNESS:

21 BY MR. SCHMIDT:

22 Q

23

24 A

25 Q

1

2 A

3 Q

4 A

5

6 Q

7 A

8

9

10 JUDGE SIPPEL:

11 THE WITNESS:

12 JUDGE SIPPEL: Could you tell me what is the extent of
13 the impact? I mean, it impacts viewership. Okay, that doesn't
14 mean a heck of a lot to me.

15 THE WITNESS: It is a great question, Your Honor.

16 JUDGE SIPPEL: Thank you.

17 THE WITNESS: No, it is not easy. It is a very
18 complicated question. So, are you better off having a certain
19 channel number?

20 JUDGE SIPPEL: Well, let's start it this way. How close
21 do you have to be to the favored channels to make a difference or
22 how far away do you have to be?

23 THE WITNESS: Right. And there is no -- it is very
24 difficult to quantify the impact. So, if you would think three
25 slots of the channel you want to be near, what is that impact

1 versus being ten slots away and are you better off being on a very
2 low channel level or being in a neighborhood of like kind networks?
3 And there is no real precise answers for that. It is more an art
4 than a science and a bit of a feel and there is a bit of trial and
5 error.

6 So, in answer to your question, we can't really quantify
7 exactly what the impact is. We know that certain channel
8 positioning is going to be better than others. We just sort of
9 know it.

10 JUDGE SIPPEL:

11

12 THE WITNESS:

13

14

15

16 JUDGE SIPPEL:

17

18 THE WITNESS:

19 JUDGE SIPPEL: And did you engage in discussion with her
20 and perhaps other people in the group to come to that conclusion?

21 A I'm sure that she tried to analyze it as best she could
22 and she worked with, I'll bet, research folks and other folks to
23 get their opinion on it and to see if they can make it back in
24 terms of increased viewership.

25 JUDGE SIPPEL: Well were there hard numbers?

1 THE WITNESS: I really don't know.

2 JUDGE SIPPEL: You were not there?

3 THE WITNESS: I wasn't involved in that analysis.

4 JUDGE SIPPEL: Okay. But how would you -- you are
5 familiar with it. Not with that, excuse me --

6 THE WITNESS: I'm familiar with the concept.

7 JUDGE SIPPEL: So, how do you -- what is the methodology
8 for coming to a decision?

9

10

11

12 THE WITNESS: Well, for example, you could say okay, here
13 is a network we would like to be next to. What is the traffic from
14 that network to the three adjacent networks? And if that traffic
15 is higher than traffic that are 30 channel slots up, that might
16 lead you to believe that it is probably better to be near that
17 channel.

18 JUDGE SIPPEL: What do you mean by traffic? What are you
19 talking about?

20 THE WITNESS: Just traffic flow from one network to
21 adjacent networks.

22 So, if you think that you are going to get the benefit of
23 people changing channels because they are just flowing from the
24 channel that is heavily watched to an adjacent channel, you really
25 want to look at the flow of traffic from the first channel to the

1 second, third, or fourth adjacent channel.

2 JUDGE SIPPEL: I still don't understand what you are
3 saying.

4 THE WITNESS: That's because this is not my area.

5 JUDGE SIPPEL: Oh, okay.

6 MR. GORDON: I think he's asking you what you mean by
7 traffic.

8 THE WITNESS: Oh, just viewership. So, if somebody is
9 watching Channel A, what percentage of those might find their way
10 to Channel B, which is adjacent? And if that is a high number, you
11 might conclude that that is a good channel to be next to.

12 JUDGE SIPPEL: Let me see if I can give you this example.
13 Supposing I like a program I am watching. I don't know who ran this
14 thing, but I am watching Texas Rising and I really -- what is going
15 to prompt me to go to another channel?

16 THE WITNESS: A commercial.

17 JUDGE SIPPEL: Okay.

18 THE WITNESS: A commercial comes on.

19 JUDGE SIPPEL: But, then I go to the other channel and
20 they have got a commercial.

21 THE WITNESS: Then that is a problem. Then the second
22 channel doesn't get the benefit of trying to capture you.

23 JUDGE SIPPEL:

24

25 THE WITNESS: Because some people do channel surf during

1 commercials. For example, channel surfing is just one example and
2 people may channel surf during commercials. And if you happen to
3 have something on that captures their attention, they may stay long
4 enough to watch a promotion of your other shows and they may engage
5 with that. And over the course of time, you may wind up increasing
6 your viewership.

7 And there are certain people who just stay and watch
8 within a certain range of channels and never get above a certain
9 level.

10 JUDGE SIPPEL: Because it is going to take too long to
11 come back again.

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: Am I right?

14 THE WITNESS: Yes.

15 JUDGE SIPPEL:

16 THE WITNESS:

17

18

19

20

21 JUDGE SIPPEL: Who would she have to run this by? I mean

22 --

23 THE WITNESS: She would have to run it by --

24 JUDGE SIPPEL: Tom Rutledge?

25 THE WITNESS: No, not necessarily but at least our Chief

1 Operating Officer who, at the time, was Ed Carroll.

2 JUDGE SIPPEL: Okay.

3 THE WITNESS: And probably even Josh Sapan would be
4 involved.

5 JUDGE SIPPEL: And how high up the line does Josh Sapan

6 --

7 THE WITNESS: So, Josh is the CEO of Rainbow -- of AMC.

8 JUDGE SIPPEL: And that is the umbrella that owns WE tv.

9 THE WITNESS: Yes, sir.

10 JUDGE SIPPEL: Okay. Do you have anything more than
11 that?

12 MR. SCHMIDT: Yes, if I could wrap up this line, it might
13 be a good place to break, in terms of Your Honor wanting to finish
14 at 5:30.

15 JUDGE SIPPEL: Well, I do but I mean this thing really
16 has me puzzled.

17 MR. SCHMIDT: Yes.

18 JUDGE SIPPEL:

19

20

21

22 BY MR. SCHMIDT:

23 Q

24

25

1 A

2

3

4

5 Q I think you are answering the other side of my question.
6 My question is, from your point of view, is there value
7 particularly in New York in getting favorable channel placement?

8 A There is value in getting favorable channel placement,
9 yes.

10 Q What is that value, particularly in New York in getting
11 favorable channel placement?

12 A I think New York is -- it is volume more than anything.
13 It is the largest television DMA in the country so in getting
14 distributes.

15 Q And is that true for getting full distribution in New
16 York as well, the benefits of getting full distribution in New York
17 as well?

18 A Getting -- okay, I'm not sure I understand the question.

19 Q Getting broadly distributed -- getting high penetration.

20 A Yes, it is always better to get high penetration.

21 Q Do you still have Exhibit 275 in front of you?

22 JUDGE SIPPEL: Now, Ms. Doree testified today that she
23 doesn't even get Cablevision. She lives in Manhattan.

24 THE WITNESS: Yes. Yes, so Cablevision doesn't serve
25 Manhattan.

1 JUDGE SIPPEL: Well, how far down does that go? Does
2 that go down to AMC?

3 THE WITNESS: Yes, so stable --

4 JUDGE SIPPEL: Your stable of programs?

5 THE WITNESS: Yes. So, Cablevision only has franchises
6 in the areas surrounding Manhattan. Time Warner has Manhattan.
7 So, our networks are carried by Time Warner.

8 So, she gets our networks. She just doesn't get them
9 from Cablevision.

10 JUDGE SIPPEL: Okay. Okay, go ahead. Keep going.

11 BY MR. SCHMIDT:

12 Q Do you have 275 in front of you still, sir?

13 A Yes.

14 Q If you look further down in the email chain, there is a
15 discussion about the benefit on the ad sales side of carriage by
16 Time Warner in Manhattan and then there is a number of dashes. Do
17 you see those dashes?

18 A Yes.

19 Q The first one is gets is fully distributed in the New
20 York ad market. Do you agree that has specific value?

21 A Can I just read the lead-in?

22 JUDGE SIPPEL: Sure, go ahead.

23 MR. COHEN: Did you say 275, Mr. Schmidt?

24 MR. GORDON: He did, yes.

25 MR. SCHMIDT: Yes.

1 THE WITNESS: All right. So, he confirms that getting
2 ROM, the channel position, is difficult. But as far as what you
3 are asking is, gets us fully distributed in the number one ad
4 market. That is the benefit.

5 BY MR. SCHMIDT:

6 Q My question was simply is there a specific benefit to
7 that being fully distributed in the number one ad market, New York?

8 A Yes, I do think that there is a real benefit to being
9 fully distributed.

10 Q And then she gives a couple of other bullet points here.
11 Our buyers can actually see that now. Do you understand that to be
12 a reference to ad buyers?

13 A This is from Jen Robertson. I assume she is referring to
14 ad buyers.

15 Q And then in the last bullet, blue chip advertisers want
16 to buy cache of New York City helps. Market is very important for
17 most of our existing advertisers on Wedding Central. Do you agree
18 with that proposition? Those are all specific reasons why having
19 broad carriage, having good channel placement in New York makes a
20 big difference.

21 A That is what she appears to be saying. I don't -- I'm
22 not sure.

23 Q Do you agree with that as a proposition, that that
24 carries specific value, that New York City market for the reasons
25 she identifies?

1 A Blue chip advertisers want to buy -- market is very --
2 yes, I'm not sure.

3 Q Okay, let me try to wrap up this line of questions. We
4 saw how --

5 JUDGE SIPPET:

6

7

8 THE WITNESS:

9 JUDGE SIPPET:

10 THE WITNESS:

11 JUDGE SIPPET:

12 MR. SCHMIDT:

13 BY MR. SCHMIDT:

14 Q Do you remember the document we looked at that talked
15 about WE having poor channel placement with another MVPD in major
16 markets and how that led to non-existent viewership?

17 A Yes.

18 Q Do you remember we saw how in the first document we
19 looked at, we did better, or had better placement with -- channel
20 placement with Cablevision?

21 A I remember the document you are talking about, yes.

22

23 Q

24

25

1 A

2 Q

3

4 A

5 Q Are there any other major MVPDs you can point me to?

6 Like if you look at your list on page four of your report who gave
7 WE across their systems the same favorability of channel placement
8 that Cablevision gave to WE?

9 A Yes. I think it varies by market.

10 Q Okay.

11 A I think the channel placement of WE varies by market. In
12 some cases we have good channel position and in some cases it is
13 not so good.

14 So, you pointed to Time Warner Manhattan. It is a very
15 good channel position today.

16 Q But not as good as Cablevision in Manhattan -- in the New
17 York area.

18 A Oh, it is in the 50s.

19 Q Let's look back at Exhibit 16, please.

20 JUDGE SIPPEL: So, we're past 5:30. Would this be a
21 decent place to stop?

22 MR. SCHMIDT: I think I probably have two more minutes,
23 Your Honor.

24 JUDGE SIPPEL: Okay.

25 MR. SCHMIDT: And then I will be done with this line.

1 JUDGE SIPPEL: Two more minutes, okay. That's not like
2 the streamlining approach that we did.

3 MR. SCHMIDT: In defense of my partner, I think if we
4 compare his crosses to the crosses on the other side, they are
5 pretty streamlined.

6 JUDGE SIPPEL: All right.

7 MR. GORDON: Now, now.

8 JUDGE SIPPEL: I'm not so sure about that.

9 MR. GORDON: We've been keeping time. We will submit a
10 brief, Your Honor.

11 JUDGE SIPPEL: Okay.

12 BY MR. SCHMIDT:

13 Q If you look at the last page of 16, that is specifically
14 comparing Time Warner channel placement with Cablevision channel
15 placement. Right?

16 JUDGE SIPPEL: Wait a minute. Where are you on?

17 MR. SCHMIDT: Exhibit 16, the very last page.

18 JUDGE SIPPEL: Exhibit 16, in your big book?

19 MR. SCHMIDT: Yes, please, Your Honor.

20 JUDGE SIPPEL: I want to get to 16. Well, I got it right
21 here. Go ahead, now. Please continue.

22 BY MR. SCHMIDT:

23 Q Do you see the specific comparison of channel placement
24 of WE with Time Warner versus Cablevision?

25 A Yes.

1 Q And do you see her statement comparing Time Warner and
2 Cablevision on the page before WE greatly benefits from being
3 placed near Lifetime and Bravo on Cablevision?

4 A Yes.

5 Q My question is simply can you point me to any other major
6 carrier who, across their systems, not on a system-by-system basis,
7 but across their systems, gave the same level of favorable channel
8 placement to WE tv that Cablevision did?

9 A I don't know off-hand.

10 MR. SCHMIDT: Thank you. Why don't we break?

11 JUDGE SIPPEL: Okay, we are going to meet tomorrow, then,
12 at 9:30. You, sir, will be on the stand.

13 THE WITNESS: Great.

14 JUDGE SIPPEL: You are still under oath when you are off
15 the stand. So, don't talk to any other -- really, just don't talk
16 to anybody involved in this case, except your lawyer. That is the
17 easy way to put it.

18 THE WITNESS: Okay.

19 JUDGE SIPPEL: We're off the record, thank you.

20 (Whereupon, the above-entitled matter went off the record
21 at 5:39 p.m.)

22

23

24

25