

Center for Digital Democracy
2120 L Street, NW, Suite 200
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July 27, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20054
Filed Electronically
Docket # 03-124

Dear Ms. Dortch:

As we noted in our original Petition to Deny the Transfer of Authority to News Corporation of Hughes Electronics from General Motors, News Corp.'s control of key EPG company Gemstar raises, in our opinion, many potential conflicts of interest. Critical competition issues emerge for the markets of both the "old" TV programming business (broadcast, cable, DBS) and the emerging "new" Video on Demand (VoD, FoD, etc), HDTV, and Digital Video Recorder (DVR) markets. We submit for this docket a recent article from *Multichannel News* that we believe encapsulates some of the concerns the Commission must properly address in this proceeding. The issue of "guide integration" and its implications must be examined. News Corp. will be able to---in subtle and not so subtle ways---be able to use its Gemstar subsidiary to gain unfair competitive advantages---compounded more so by its proposed take-over of Hughes.

Sincerely,

Jeffrey A. Chester
Executive Director

Op Needs, Not Foe Microsoft, Top TV Guide Agenda: Aaron

By Matt Stump

Multichannel News

7/21/2003

While Microsoft Corp. executives unveiled the new TV Foundation Edition interactive program guide to much fanfare at last month's National Show, executives at Gemstar-TV Guide International Inc. quietly went about their work.

The News Corp. unit has been the dominant guide player in cable for some time, and many industry participants would say it pushed that goodwill to its limits under the regime of former head executive Henry Yuen.

Yuen is now gone — replaced by Gemstar-TV Guide CEO Jeff Shell, who two months ago hired industry veteran Ian Aaron as president of the TV Guide Television Group. The TV division includes the traditional linear TV Guide Channel, seen in 56 million homes, along with the company's TV Guide Interactive product, now in 11 million homes.

There still might be damage to repair from the company's heavy-handed days, and relationships with MSOs to mend. And then there is the prospect of Microsoft entering the space.

But TV Guide's biggest challenge today probably lies in handling the myriad services that require guide integration, starting with video on demand and now including HDTV and digital video recording devices, or DVRs.

All these new services now being implemented by cable operators require, at a minimum, a level of integration with the guide that lets consumers use VOD, HDTV and DVR services. At a maximum, the guide can become a key portal for cable operators to upsell these new services.

Those responsibilities now lie with Aaron.

"We have a unique opportunity with the brand, the platform and the content," Aaron said. "The question is how do we become agnostic across all these different platforms? We've developed interfaces with Liberate [Technologies Inc.] that we did for Comcast [Corp.], and we did the same thing with Charter [Communications Inc.], Wink [Communications Inc.] and WorldGate [Communications Inc.].

"We're helping drive [applications program interfaces] with server vendors. We have this platform across the varying different combinations so we can gain the broadest distribution. We will have to integrate into other configurations that partners want to bring to the table."

In the old days, TV Guide might have had a two- to three-year software-release schedule. Today, the time frame is much more compressed.

For example, when Comcast wanted to roll out 1,200 hours of VOD fare — with plenty of free content — to its Philadelphia systems late last year, it required TV Guide to basically create a Comcast-specific guide to meet its needs in that cluster.

"We worked with Comcast on their specs, what they wanted with VOD, and used that as basis to develop VOD functionality," Aaron said. "We've done that with a lot of affiliates.

"We're doing the exact same things with PVR," Aaron said, referring to "personal" or digital video recording. TV Guide has said it will have a DVR software release ready once Motorola begins shipping its DCT 6208 DVR this fall.

"Products like DVR and VOD are core aspects of the guide," Aaron said. "We have clear road maps and deliverables on those products.

"The products have become much more focused on consumers and consumer interaction. We're doing more work with content providers. We're more focused on the consumer and distribution as a partnership and before it was very different."

Aaron divides TV Guide's product into three areas: the "tan" guide, the "blue" guide and the interactive guide.

The "tan" guide debuted in 2000, and its latest software version is being tested in Motorola's Acadia labs.

"We're making significant enhancements to that, driven by Comcast and VOD," Aaron said.

Additions include support for HDTV, expanded VOD capabilities and integration with middleware vendors.

For example, consumers will be able to get to HBO On Demand content from the linear channel, the basic guide or the on-demand section. VOD programmers can customize their own pages, tied in with the server vendors.

The "blue" guide also is getting an overhaul, and is now in testing at Acadia.

"It should be coming out in the next couple of months," Aaron said.

Advancements include VOD-search enhancements for multiple-level searches, favorites, and a quick-access menu bar that allows a user go right to their favorites or to movies.

"There is more functionality with the same footprint" and "great enhancements on speed. And MSOs can do some customization on background colors."

The blue guide also will incorporate HDTV and DVR icons. DVR-enabled set-tops will activate queues inside the guide to prompt viewer interest in recording a TV program. "You would have the capability to record from the flip bar window or go-to menu," he said.

"We're tied to the listings, and we know when the show you want to record is airing," he said. A "My Recordings" section has been added to the main menu, so DVR users can easily find content they have recorded.

The processing power of the guides has also been upgraded, Aaron said. Previously, when a set-top was switched off and then on, it might take 15 to 20 minutes for the guide data to reload. Aaron said with the new guides, that time will be cut to 15 seconds.

TV Guide's interactive guide also sports greater speed and new enhancements. It will have a higher resolution level for larger screens, Aaron said.

"We're coming out with a revised advertising model. We've started going out to ad partners, agencies, studios, cable networks, to see what they want to do in this space with this guide."

All three guides will support HDTV, starting with a small HDTV icon on any program that is being transmitted in the format. "We also have the ability to group HDTV in the listings, to see the channels together," Aaron said. "We also have a specific HD area in the guide area."

What of the Microsoft developments? "It's what Microsoft does, develop server and client software," Aaron said. "This time they have gone about it the right way, asking cable operators what's important to them."

It's critical for guide vendors to interface with other software systems, whether it be those from Liberate, NDS Group plc or Open TV Corp. "We see that as a charter to get distribution," he said.

"I don't know if that is in Microsoft's charter," he continued. "We're looking at how we partner."

TV Guide also benefits because it has a patent license arrangement with Microsoft. "Their success is our success. Their strategy of wanting to be more the toolset than the guide is more complimentary than where they were before."

Aaron remains confident in the role TV Guide plays.

"We're the authority in the guide space," he said. "We run more promo shows on how to drive VOD, HD and how to promote an operator's content.

"With the blue guide, we have tested it on seven to eight different platforms, and all the DCT-2000 extensions. It's one thing to show stuff running in a lab, and another thing to show something running on different boxes have that with 11 [million] homes."

"The good news is we've have a lot of experience and depth in our products and we've had to take more of a partnership role," Aaron said.

For many operators, that is a welcome change.

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