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HIGH SPEED INTERNET

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COX High Speed InternetSM Padres.TV

For the first time ever, Cox High Speed Internet customers can watch in-market Padres games – with no local blackout restrictions - LIVE online. Plus, watch more than 300 LIVE out-of-market baseball games from the league broadcast LIVE each month online.

Watch and listen to LIVE games for only **\$14.95/month** or purchase the entire season for just **\$89.95!** Worried you'll miss a game? Never again! Access to extended highlights, searchable video, archived content and more, on-demand - all just for being a Cox High Speed Internet customer.

[Order Online](#) >

[Build a Cox Bundle](#) >

Cox High Speed Internet

Related Links

- > [Service Plans](#)
- > [Cox Security Suite NEW!](#)
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Special Offers

- > **Economy Internet service just \$14.99/mo for 12 months** when you order online! [offer details](#)
- > **Preferred Internet service just \$29.99/mo for 3 months** when you order online! [offer details](#)

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Don't have Cox High Speed Internet? [Order now](#) and find out what you've been missing!

FREQUENTLY ASKED QUESTIONS

What does Padres.TV offer Cox High Speed Internet (CHSI) Customers?

Padres.TV offers CHSI customers the ability to view more than 300 LIVE out-of-market games per month!

For the first time EVER, Cox High Speed Internet customers can watch and listen to in-market Padres games LIVE ONLINE, with no local blackout restrictions.

Is Padres.TV available to everyone?

Padres.TV is only available to Cox High Speed Internet customers in the San Diego market.

What are the benefits of using Padres.TV?

- Watch 98% of all LIVE out-of-market MLB games.
- Listen to every game, every day: MLB.com GAMEDAY Audio brings your live audio feeds from every game, wherever they're played.
- Enjoy extended MLB highlights of all broadcast games.
- Explore the searchable area so you can track your favorite players and view video highlights of them.
- Relive classic games from baseball's storied past with Baseball's Best.

How much does Padres.TV cost to Cox High Speed Internet customers?

Padres.TV is available for \$14.95 per month to Cox High Speed Internet customers.

> Preferred Internet service just \$5/mo for 6 months with the Cox Unlimited Bundle! [offer details](#)

> FREE modem rental -or- 50% OFF modem purchase with new Preferred or Premier service (online only)! [offer details](#)

> Connect for FREE when you select our Cox High Speed Internet Fast Connect install option, or enjoy 50% OFF a professional install! [offer details](#)

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Support Links

- > [Technical Support](#)
- > [Billing Support](#)
- > [Cox.net WebMail](#)
- > [Internet Tools](#)

> [Download the FREE Cox Security Suite](#)

Can I view MLB games via any computer?

You must sign up from your Cox High Speed Internet computer initially but you may access Padres.TV from any computer that has internet access, which means you can watch any game from work or while you are traveling. Never miss another Padres game again!

Is there an annual commitment to the Padres.TV?

No. You may choose to subscribe to Padres.TV for just \$14.95/month, or you may also purchase the entire season for just \$89.95.

Get more information via [www.Padres.TV...](#)

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For full Padres.TV service description and restrictions, please visit [www.padres.tv](#).

Cox High Speed Internet service available to residential customers in Cox San Diego serviceable areas and requires cable modem purchase or rental (\$10/mo). For best performance use of a Cox

approved modem is recommended. Visit <http://support.cox.com> for a list of Cox approved modems and minimum computer requirements. Cox cannot guarantee uninterrupted or error-free service, or the speed of your service. Actual speed varies. Email access available from any Internet-connected personal computer with a standard Web browser. PowerBoost is only available to Cox High Speed Internet Preferred and Premier package customers in-Cox service areas. PowerBoost is a registered trademark of Comcast Corporation, used with permission. Installation charges may apply. Service may not be available in all areas. Rates are subject to change and do not include equipment fees, applicable taxes, surcharges and other fees. Other restrictions apply. © 2008 Cox Communications, Inc. All rights reserved.

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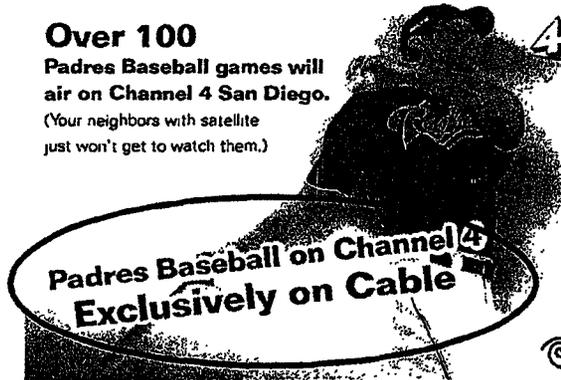
Time Warner Padres Advertising

Time Warner bill
insert – 2008 time
period

Over 100
Padres Baseball games will
air on Channel 4 San Diego.
(Your neighbors with satellite
just won't get to watch them.)



And if you have an
HDTV* you can
watch your Pads in
high definition on
channel 704.



Catch all the best programming in High Definition!

Check out all the **HD channels** available over our advanced fiber network
with even more new channels coming soon!

HOME OF FREEHD

4SD abc HD FOX HD PBS HD CBS HD CW HD MTV HD
 ESPN HD ESPN2 HD ESPN3 HD
 TBS HD TNT HD
 VERSUS HD
 ESPN HD ESPN2 HD

Padres Baseball on Channel 4
Exclusively on Cable

4SD

Get Digital Cable, Broadband High-Speed Online
and Home Phone for less than **\$90** per month!
Special Offer

TIME WARNER CABLE
THE POWER OF YOU

*Not all services available in all areas. HD service available only on compatible equipment. Serviceable areas only. Some restrictions may apply. ©2008 Time Warner Cable. All rights reserved.

Direct Mail May
2008



Time Warner Padres Advertising

Current Door to Door advertising

TIME WARNER CABLE
THE POWER OF YOU™

Padres Baseball on Channel Exclusively on Cable



ASD HIGH-SPEED ONLINE

Buying a new HDTV? In order to enjoy the same picture clarity you saw at the store, you'll need an HDTV converter from Time Warner Cable.

Watch your favorite HD shows whenever you want with HD DVR

FREE HD

all the best

MAKE IT SIMPLE... 3 SERVICES, ONE BILL

Save over \$800 when you order all three!

DIGITAL CABLE

- Over 200 channels
- Movies On Demand
- Free HDTV
- All local programming, including cable-exclusive Padres, &
- No expensive equipment to buy
- 75 channels at additional cost

DIGITAL CABLE

- 70+ Advantage channels
- Free On-Demand movies
- One At-A-Time Queue feature
- Access to Movies On Demand, Pay-Per-View, Sports PPV and HDTV Channel

PLUS, choose 1 Digital Photo Gallery, Choice Business Alerts or Max Locker

ONLY \$29.95* per month for 12 months!

High-Speed Online

- Home Membership required
- FREE Road Runner Rides & RR PhotoShow Deluxe
- FREE Security Software and Parental Control*

VIEW & SURF

ADD Blazing-fast Road Runner High Speed Online - up to 15 Mb/sec. All the Best Digital Cable offer!

ONLY \$59.90* per mo. for 12 mos.

HOME PHONE

- Unlimited calling and FREE long distance in the U.S., Canada and Puerto Rico
- Includes Call Waiting, Call Forwarding, 3-Way Calling and more
- Keep your existing phone number
- Add About Instantaneous One Price for an additional \$18.95/mo.

ALL THE BEST VAL

GET ALL 3! Digital Cable, Road Runner with Free Wireless Router and 1/2 Nationwide Home Phone Service

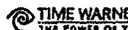
ONLY \$89.85* per mo. for 12 mos.

HURRY! This offer expires soon!

SWITCH FROM SATELLITE TV or U-VERSE and receive the above offers for 2 years!

Offer Valid ONLY Through Your LOCAL Representative

- No Contract/No Deposit
- 30-Day Money-Back Guarantee
- Free Installation
- Local Customer Service
- 24/7 Tech Support



Suzi (858) 357-3919

Previous Door to Door advertising

SPECIAL PROMOTION: DIGITAL CABLE+ROAD RUNNER @ \$59.99 PER MONTH FOR 12 MONTHS; THEN ONLY \$64.99/MONTH FOR THE NEXT 12 MONTHS

DIGITAL CABLE

Give you choices so plentiful that no satellite company can match!

\$39.95* per month for 12 months!

- Hundreds of TV's top networks*
- Local Channels include a High-Def Channel & Padres
- Access to Pay & Click, Sports PPV
- On-Demand Movies, FREE Channels & More!
- FREE Cable Installation on a 1-Year Contract!

High-Speed Online

Road Runner makes being online a lot more fun!

\$29.95* per month for 12 months!

- Blazing fast speed
- Always-on internet access
- 24/7 live customer support
- FREE Road Runner Rides!
- FREE Road Runner Video Channel
- FREE internet Router, Control & Sec. any Software

Home Phone

UNLIMITED CALIFORNIA - A Better Choice in Home Phone Service

\$19.95* per month for 12 months!

- One low price lets you talk, anytime, in the state.
- Keep your same phone number
- FREE Call Waiting, Call Forwarding, Speed Dial, Caller ID & 3-Way Calling
- 24-hour 911

HURRY! THIS OFFER ENDS SOON!

This offer is only available through your local representative.

REGGIE (858) 229-2751

TIME WARNER CABLE
THE POWER OF YOU™

SWITCH FROM YOUR CURRENT SATELLITE OR DSL SERVICE AND QUALIFY FOR EVEN MORE SAVINGS!

Free Installation

Local Customer Service

24/7 Tech Support

at&t

Time Warner Padres Advertising

Direct Mail
 March 2008 –
 Top reasons to
 switch to Time
 Warner

...Only Time
 Warner cable
 has exclusive
 Padres
 coverage...

Reason #3 **DVR lets you watch your shows on your time.**
 It's the whole new way to watch TV. You can watch your favorite shows when you want, not when they air. You can pause, rewind and fast forward through entire episodes. And you can watch your favorite shows again and again. It's the whole new way to watch TV.

Reason #4 **Padres exclusive!**
 Only Time Warner Cable has exclusive Padres coverage on Channel 2.
 • You won't see this with any dish.
 • Watch the game on your schedule. Get a Padres On Demand free with Digital Cable.

Reason #5 **Our Internet is at least 6 times faster!**



ATTACHMENT 2

Kenneth Hollander Associates

Marketing Research

**DECLARATION OF KENNETH A. HOLLANDER SUBMITTED ON BEHALF
OF AT&T SERVICES AND PACIFIC BELL TELEPHONE COMPANY IN
THEIR PROGRAM ACCESS COMPLAINT BEFORE THE FEDERAL
COMMUNICATIONS COMMISSION**

NOVEMBER 20, 2008

45431 Greenling Circle
Mendocino, California 95460
Phone: 707.962.1648
Facsimile: 707.962.1635
Ken@KHAresearch.com

DECLARATION OF KENNETH A. HOLLANDER

I, Kenneth A. Hollander, declare:

1. I am President of Kenneth Hollander Associates, Inc. (the "Company"), a firm specializing in consumer research located at 45431 Greenling Circle, Mendocino, California 95460. I am a resident of Mendocino, California. I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. I was retained on behalf of AT&T Services, Inc. and Pacific Bell Telephone Company, in their Program Access Complaint before the Federal Communications Commission. Specifically, I was asked to conduct survey research in the greater San Diego area to determine the extent to which, if any, relevant consumers believe that the inability of AT&T's "U-verse" Internet-Protocol-based video programming service to offer telecasts of Channel 4's San Diego Padres baseball games is a deterrent to their subscribing to the "U-verse" service. Based on my experience, I am qualified to design and conduct a survey and offer an expert opinion on this issue, as explained below.

Experience

3. I graduated from The Ohio State University with a Bachelor of Science degree in Marketing in 1959. I then obtained a Masters of Business Administration degree in Marketing from the University of Missouri in 1963.

4. Prior to starting the Company in 1973, my employment history included the following:

(a) Research Brand Manager, The Procter & Gamble Company, 1959 to 1961, in which I served in a two-man Experimental Research and Technique Development team responsible for all unique, non-recurring research issues concerning all P&G brands.

(b) Associate Research Director, Hallmark Cards, 1961 to 1964, in which I was responsible for all greeting card research as well as acquisitions and mergers explorations.

(c) Director of Research, Young & Rubicam, Chicago, 1964-1970, in which I was responsible for all research for all of the agency's clients, including Allied Van Lines, American Paper Corporation, Armour Dial, International Harvester, and U.S. Naval Recruiting.

(d) Vice President, Director of Communications Planning Group, The Interpublic Group of Companies, 1970-1973, in which I was responsible for all communications research for the Coca-Cola Company, both domestic and international.

(e) I have lectured on marketing research applications and methods at the Graduate Schools of Business at Emory University and Georgia State University in Atlanta, Georgia; the University of Georgia in Athens, Georgia; and Stanford University in Palo Alto, California.

(f) At the University of Georgia, I was Chairman of the Board of Advisors for the Masters of Marketing Research Program from 1988-89, and a Distinguished Practitioner Lecturer in the Department of Marketing in 1987. Around 1991, I was a Contributing Editor to the textbook, Advertising.

(g) I speak on marketing and surveys at events sponsored by the American Marketing Association, The Association of National Advertisers, The Advertising Research Foundation, and the Marketing Research Association.

5. Over the past 30-plus years, I have conducted thousands of consumer surveys for many of the world's largest and most prominent companies including but not limited to: Anheuser Busch, Bank of America, The Coca-Cola Company, Delta Air Lines, Eastman Kodak, Ford Motor Company, General Electric, Hublein, IBM, Johnson & Johnson, Lever Brothers, Kimberly-Clark, Mattel, No Nonsense, Pillsbury, Quaker Oats, Ralston-Purina, STP, Texas Instruments, Uncle Ben's, and Xerox.

6. I am an acknowledged expert witness in the United States Federal Court System on matters pertaining to marketing research. In such capacity I have conducted, critiqued, or counseled on over 120 surveys. I have been deposed or testified as an expert

witness approximately 40 times in trademark infringement lawsuits. I know of no instance in which my expert testimony was not admitted. My substantial experience in marketing and surveys provides me with the background necessary to prepare and analyze the survey described in this declaration.

Survey Design Principles

7. The results of this survey are discussed in detail in the following paragraphs where, it will be noted, specific effort was made to be objective by recognizing potential, albeit inadvertent, biases and accounting for each of them beforehand. The present survey was designed by me and conducted under my direction in accordance with the principles and standards delineated in the Manual for Complex Litigation, Third Edition, 1995, prepared for the Federal Judicial Center. These principles provide the best assurance that the data collected are valid and can be relied upon to draw conclusions regarding consumers' opinions. The principles provide that:

- (a) The proper universe(s) be identified and examined.
- (b) A representative sample be drawn from each such universe.
- (c) The plan for selecting the samples be prepared in accordance with generally accepted standards of procedure in the field.
- (d) The questionnaire for gathering this relevant information be prepared in accordance with generally accepted standards of procedure.
- (e) The persons designing and conducting the investigation be qualified to perform their tasks.
- (f) The interviewers be well trained and have no knowledge of the pending litigation or purposes for which the data would be used.
- (g) The interviewing be conducted in accordance with generally accepted standards of procedure in the field.
- (h) The questioning of respondents be correct and unbiased.
- (i) Once gathered, the data be accurately analyzed and reported.

8. The Reference Manual on Complex Litigation, Second Edition, West Group, St. Paul, MN, 2000 (“Reference Manual”), prepared for the Federal Judicial Center, states on page 239, “One of the first steps in designing a survey or in deciding whether an existing survey is relevant is to identify the target population (or universe). The target population consists of all elements (*i.e.*, objects, individuals, or other social units) whose characteristics or perceptions the survey is intended to represent.”

9. With respect to this initial step for this survey, the relevant universe comprises people who are in the market for the litigants’ services.

10. Accordingly, the target population (proper universe) for a probative survey about the contested San Diego Padres television offering is (1) men and women, (2) age 18 or older, (3) living in the San Diego, California Designated Marketing Area, (4) who currently subscribe to a video television service such as cable or satellite television, or are likely to do so in the coming 12 months, (5) who make or share in making the decision as to which video television service to use, and (6) who do not have atypical knowledge because of their employment, or who have family members with such atypical knowledge.

11. The Reference Manual also states on page 240 that “The surveyor’s job generally is easier if a complete list of every eligible member of the population is available so that the sampling frame lists the identity of all members of the target population.” A sample drawn at random from such a list would be a true probability sample.

12. A complete list of all members of this universe was obviously not available, which means that a true probability sample was not possible. Therefore, a non-probability sample was used for this investigation. Non-probability samples are and have been used to make consequential academic and business decisions and are also accepted into evidence in Federal Courts throughout the country.

13. A 2008 survey conducted by Parks Associates showed that 79% of all U.S. households are Internet users. Therefore, the Internet was used as the interviewing medium for the survey because it has significant advantages over other interviewing options. This is

especially true where visual stimuli are required. (See paragraph 14.) In fact, according to the leading marketing research publication, "Inside Research," one-third of all survey research is conducted via the Internet and this percentage continues to increase.

14. Given such widespread adoption, the use of the Internet as an interviewing medium affords the opportunity to (a) locate and interview a representative sample of the proper universe in a timely and efficient manner, (b) eliminate any potential interviewer biases, (c) expose proper stimuli to specific respondents in exactly the same manner, and (d) allow respondents to complete a survey at a time and place of their choosing and, thus, to do so in a more thoughtful manner than if it were a time and place of the researcher's choosing. The Internet is particularly relevant in this case because U-verse is marketed as a package including high-speed Internet access, so the target community for the service is at least largely made up of Internet users.

15. With these considerations in mind, the sample for this survey comprised 410 respondents living in households recruited by the Internet interviewing firm of e-Rewards Market Research. All met the screening requirements previously discussed.

16. e-Rewards is widely respected in the marketing research industry and has been used before by the Company to conduct surveys. Based on my experience and credentials as a marketing and survey expert, it is my opinion that the survey responses of the e-Rewards respondents meeting this survey's screening requirements are reasonably representative of the general United States population who would meet these same screening requirements.

Summary of AT&T U-verse Television Survey

17. This survey employed a Test and Control protocol in order to account for what survey researchers refer to as "noise," that is, any exogenous and unmeasurable respondent issues such as going-in knowledge and/or preconceived opinions. The way around these potentially confounding influences is to use a control group. The Reference Manual discusses the rationale for using such a control group on pages 256-260.

18. The Control Group of 205 respondents saw an image of the AT&T U-verse offering that excluded Channel 4, with coverage of the San Diego Padres games. A copy of the Test Group image is shown in Exhibit 1, attached. I refer to the Control Group image as the "No-Padres Offer."

19. The Test Group of 205 respondents saw an image of the AT&T U-verse offering that (for purposes of this survey only) included Channel 4, with coverage of the San Diego Padres games. A copy of the Test Group image is shown in Exhibit 2, attached. I refer to the Test Group image as the "Padres Offer."¹

20. To repeat and clarify, both the Test Group and the Control Group saw an advertisement for the AT&T U-verse offering; the only differences in the two advertisements were (1) the Test Group advertisement showed a San Diego Padres baseball player and the Control Group advertisement showed a San Diego Chargers football player, consonant with the claim on each advertisement of "Over 250 programming channels, including a variety of sports channels," and (2) the Test Group advertisement contained the claim, "We offer Channel 4, with live coverage of San Diego Padres games," and the Control Group advertisement contained the parallel (but negative) claim of, "Sorry, we do not offer Channel 4, with coverage of San Diego Padres games." All other elements of the two advertisements were identical.

21. Survey respondents were assigned either to the Test Group or the Control Group on an every-other-interview basis. The respondents in both the Test Group and the Control Group were asked essentially identical questions in an identical order. A complete copy of the survey questionnaire is attached hereto as Exhibit 3.

22. This protocol enabled us to isolate and quantify the influence of the availability of Channel 4 San Diego Padres programming on respondents' level of interest in

¹ All participants in the Control Group saw a disclaimer when they completed the survey that said, "Please note that the ad you just saw was for a service that currently is not offered in the San Diego area, and was shown to you only for purposes of this research."

U-verse television, and to ensure that this influence is not caused by "noise" or by differences between the respondents themselves, or by the questions asked of these respondents.

23. Before being exposed to one of the two advertisements, all respondents were first told, "For the purposes of this research, we are going to show you an advertisement for a service that might be offered in the San Diego area. Please look at it as if you were considering subscribing to it. Take as much time as you wish. When you are finished looking at it, click the 'Continue' button on the bottom of the screen."

24. The purpose of this statement was to place the respondents in a buying frame of mind so that they would examine the advertisement as they would if they were actually considering buying such a service.

25. All respondents were then told, "Now we are going to ask you a few questions about this service. If you don't know an answer or are unsure of an answer, it's perfectly all right to indicate this and we'll just go on to the next question."

26. The purpose of this statement was to reduce, if not eliminate, guessing if respondents actually had no opinion or were not sure of their opinion.

27. Respondents in both the Test and Control Groups were first asked, "Do you already subscribe to this service?" Those who did already subscribe were asked no further questions because their opinions would not be relevant to the investigation.

28. All respondents were then asked the non-leading question, "All things considered, how interested would you be in learning more about this service?" A check-list was provided with choices of "Very interested," "Somewhat interested," "Probably not interested," "Not interested," and "No opinion." Irrespective of their level of interest, respondents were then asked the non-leading follow-up question, "Why do you say that you are (previous answer) in learning more about this service? Please be as specific as possible." Space was provided for the respondent to type an answer, and no answer was suggested.

Specific Questions Asked of Viewers of the "No-Padres Offer"

29. Those who expressed interest in the No-Padres Offer (i.e., those who said they were "Very interested" or "Somewhat interested") were then asked, "When you answered the earlier questions, did you understand that U-verse television does not offer Channel 4 with live coverage of San Diego Padres games?" Those answering, "Yes" had completed the interview.

30. This question was important because the purpose of the survey was neither to test the efficacy of the advertisement nor the respondents' ability to understand its message, but rather to determine respondents' interest in the U-verse service with and without Channel 4 and San Diego Padres games. It was therefore important to clarify whether respondents' initial answers reflected their understanding of this distinction. Answers to this question helped to differentiate those respondents who did not understand that the service offering did not include Padres programming from those who understood this but did not consider it a deterrent to considering the service.

31. Further, questions directing respondents to the presence or absence of Padres programming reflect the marketplace reality of the litigant's advertising and ordering process: as I understand it, AT&T discloses the lack of Padres programming to potential subscribers and goes so far as to have potential subscribers acknowledge during the ordering process their understanding that this programming is not offered—a process very similar to the questions asked of respondents here.

32. Those answering, "No" when asked if they had understood that the U-verse service did not include Channel 4 were then asked the non-leading question, "Now that you know that U-verse television does not offer Channel 4 with live coverage of San Diego Padres games, does that or does that not change your level of interest in learning more about this service?" Those answering, "Does not change my interest" and "No opinion" had completed the interview, because their answers indicated that the absence of the Padres programming was not relevant to their interest in the U-verse service.

33. Those answering, "Does change my interest" were asked the non-leading question, "How interested would you be in learning more about this service now that you know that U-verse television does not offer Channel 4 with live coverage of San Diego Padres games?" The same "interest" check-list was provided. These respondents had then completed the interview. This question, along with the question discussed in paragraph 32, was designed to evaluate whether the absence of Padres programming affected the interest level of those respondents who had not understood that Padres programming was not available on the U-verse television service.

34. Those who expressed little or no interest in the No-Padres Offer (i.e., those who said that they were "Probably not interested" or "Not interested") were asked, "Please tell us why you are not interested in learning more about this service." A check-list was provided offering various reasons respondents could choose, including "Other reasons." One reason on the list was the non-leading choice, "Dissatisfaction with the channels offered or not offered." Those respondents selecting this reason were then asked the non-leading open-end question, "Why are you dissatisfied with the channels offered or not offered?" Space was provided for the respondent to type an answer, and no answer was suggested.

35. All who expressed little or no interest in the No-Padres Offer were then asked, "When you answered the earlier questions, did you understand that U-verse television does not offer Channel 4 with live coverage of San Diego Padres games?" Those answering, "Yes" had then completed the interview.

36. Those answering, "No" were then asked the non-leading question, "Now that you know that U-verse television does not offer Channel 4 with live coverage of San Diego Padres games, does that or does that not change your level of interest in learning more about this service?" Those answering "Does not change my interest" or "No opinion" had completed the interview.

37. Those answering, "Does change my interest" were asked the non-leading follow-up question, "How interested would you be in learning more about this service now

that you know that U-verse television does not offer Channel 4 with live coverage of San Diego Padres games?" A check-list was provided. These respondents had then completed the interview. This last series of questions (described in paragraphs 35 through 37) was designed to ensure that the survey did not miss a further decrease in interest among potential subscribers that correlated specifically with the lack of Padres programming as opposed to other, perhaps more remediable, factors.

Specific Questions Asked of Viewers of the "Padres Offer"

38. Those who expressed interest in the Padres Offer were asked, "When you answered the earlier questions, did you understand that U-verse television would include Channel 4 with live coverage of San Diego Padres games?"

39. Those answering either, "Yes" or "No" were then asked the non-leading question, "Would you still be interested in learning more about U-verse television if it turned out that it did not offer Channel 4 with live coverage of San Diego Padres games?" Those answering, "No" or "No opinion" had completed the interview.

40. Those answering, "Yes" were asked the non-leading question, "How interested would you be in learning more about this service if it turned out that it did not offer Channel 4 with live coverage of San Diego Padres games?" A check-list was provided. Irrespective of their level of interest, these respondents had then completed the interview. This question and the ones that preceded it (discussed in paragraphs 38 and 39) were designed to test whether those who were interested in the Padres Offer were specifically influenced by the availability of Padres programming, and whether their level of interest would change if Padres programming were not available.

41. Those who expressed little or no interest in the Padres Offer were asked, "Please tell us why you are not interested in learning more about this service." A check-list was provided offering various reasons respondents could choose, including "Other reasons." One reason on the list was, "Dissatisfaction with the channels offered or not offered." Those respondents selecting this reason were then asked the non-leading open-end question, "Why

are you dissatisfied with the channels offered or not offered?" Space was provided for the respondent to type an answer, and no answer was suggested.

42. All who expressed little or no interest in the Padres Offer were then asked, "When you answered the earlier questions, did you understand that U-verse television would include Channel 4 with live coverage of San Diego Padres games?" This question was designed to identify respondents that may simply not have noticed that Padres programming was offered in this version of the offer—an especially important fact given that it may already be well known among San Diego residents that U-verse television *lacks* Padres programming.

43. Those answering either, "Yes" or "No" were then asked the non-leading question, "Would you be interested in learning more about U-verse television if it turned out that it did not offer Channel 4 with live coverage of San Diego Padres games?" Those who answered, "No" or "No opinion" had completed the interview.

44. Those who said they were interested in learning more about U-verse television if it turned out that it did not offer Channel 4 with live coverage of San Diego Padres games were then asked, "How interested would you be in learning more about this service if it turned out that it did not offer Channel 4 with live coverage of San Diego Padres games?" A check-list was provided. Irrespective of their level of interest, these respondents had then completed the interview.

General Observations

45. Interviewing was conducted from November 11 to November 13, 2008. Given the nature of Internet interviewing, and unlike telephone or mall intercept interviewing, respondents completed their interview at a time and place convenient to them and not to the interviewer, which means that they had no constraints of either time or place to interfere with their giving considered answers to the questions.

46. Because of the way the questions were crafted and because at no time was the sponsor's name associated with the survey, neither the survey programmer nor the

respondents knew the purpose of the survey. That is, no question suggested the survey's sponsor or purpose. While respondents obviously saw certain well-known corporate names, respondents could have understood the sponsor to be the Padres, Channel 4, AT&T, a marketing concern for any of these entities, or some other party. This "double blind" protocol meant that neither the programmer nor the respondents could intentionally or unintentionally influence the results.

47. In my expert opinion, all nine of the Design Principles and Standards delineated in Paragraph 7 were observed in this survey and have been referenced in the discussion of each applicable issue. Furthermore, the following additional four safeguards were observed:

(a) Respondents were told that it was permissible to have no opinion about a subject, and thus that they should not feel the need to guess at an answer.

(b) The Test and Control protocol accounted for any unknown and, therefore, unmeasurable "noise" factors.

(c) Persons who themselves had potentially atypical knowledge because of their profession, or who had family members with such atypical knowledge, were excluded from the survey.

(d) Finally, neither the survey company nor the respondents knew the sponsor or the purpose of the study; thus, neither could attempt to influence the results.

Conclusions

48. *Based upon this objective investigation, it is my expert opinion that members of the relevant universe are negatively affected in their choice of service by the absence of Channel 4/San Diego Padres programming on AT&T's "U-verse" service in the San Diego market as there is clearly more interest in the U-verse offering when it includes the Padres programming and less interest when it does not.*

49. *Specifically, more than one out of eight respondents (13.0%) were influenced by the inclusion or potential exclusion of Channel 4/San Diego Padres programming:*

- 13.6% of all respondents independently volunteered that it was the absence or presence of the Channel 4/San Diego Padres programming that was responsible for their level of interest in U-verse television: 11.2% of those who viewed the No-Padres Offer were negatively affected by the absence of Padres programming, and 2.4% of those who viewed the Padres Offer were positively affected by the presence of Padres programming. (See paragraph 51 & Table 2).
- This 11.2% is a conservative figure because it is clear from the volunteered responses that many of the respondents who viewed the No-Padres Offer and who were nonetheless "Somewhat interested" in U-verse television would have been "Very interested" had the Padres programming been available. Yet these respondents were not counted in the percentage of respondents deemed to have been negatively affected by the absence of Padres programming; instead, they were subtracted from that percentage. (See paragraph 51 & Table 2).
- Almost one-half (9.1% out of 20.0%) of those "Very interested" and "Somewhat interested" respondents who viewed the No-Padres Offer changed their level of interest when they became aware of the fact that U-verse television does not include Padres programming – a fact they had missed in first viewing the ad. Overall, 3.0% of the entire sample of respondents shown the No-Padres Offer changed their interest level from "Very interested" or "Somewhat interested" to either "Probably not interested" or "Not interested." (See paragraphs 52-53 & Tables 3-4).
- Using the most conservative estimate, a total of 14.2% (11.2% + 3.0%) of all respondents viewing the No-Padres Offer had their interest in U-verse television negatively affected by the absence of Padres programming. (See paragraph 54 & Table 5).

- *Of all respondents who viewed the Padres Offer, 8.6% of those who were "Very interested" and 1.1% of those who were "Somewhat interested" independently volunteered that a reason for their level of interest was the presence of Padres programming. This means that 2.4% of all respondents who viewed the Padres Offer had their interest level positively affected by the presence of Padres programming. (See paragraph 51 & Table 2).*
- *Of those respondents who viewed the Padres Offer who were "Very interested" or "Somewhat interested" in U-verse service, many stated that they would no longer be interested in the service if Padres programming were not included. This translates to 9.3% of the entire sample of respondents who viewed the Padres Offer. (See paragraph 55 & Table 6).*
- *A total of 11.7% (2.4% + 9.3%) of all respondents who viewed the Padres Offer would have their interest in U-verse television negatively affected by the absence of Padres programming. (See paragraph 56 & Table 7).*
- *Overall, more than one out of eight respondents (13.0%) were influenced by the inclusion or potential exclusion of Channel 4/San Diego Padres programming. (See paragraph 57 & Table 8).*

50. Table 1 shows that viewers of the No-Padres Offer who understood from the outset that Padres programming was not available on U-verse television were 11.0% more likely to be “Not interested” or “Probably not interested” in hearing more about the service than viewers of the Padres Offer who understood from the outset that Padres programming *would* be available on U-verse television. Specifically, of those respondents who saw the No-Padres Offer and who understood from the outset that U-verse did not offer Padres programming, 47.3% were either “Probably not interested” or “Not interested.” By contrast, of those respondents who saw the Padres Offer and who understood from the outset that U-verse did offer Padres programming, only 36.3% were either “Probably not interested” or “Not interested.”

Viewed another way, there is an 11.0% greater interest in the U-verse television service among those who viewed the Padres Offer and were aware that U-verse television would include Padres programming, when compared to those who viewed the No-Padres Offer and were aware that Padres programming would not be included. This difference is statistically significant.

By contrast, there is only a non-statistically significant 2.0% greater interest in U-verse television service among those who viewed the Padres Offer and were not aware that U-verse television would include Padres programming, when compared to those who viewed the No-Padres Offer and were not aware that Padres programming would not be included. Thus, it is clear that awareness of the inclusion of the Padres programming was the prime driver of interest in the U-verse service.