

will be retained, [although] a majority of the sales and marketing staff are leaving."

With the demise of Birch, VNU/BIS and former Birch competitor Arbitron have signed a five-year license contract in which the ratings company will be the exclusive marketer of VNU's Scarborough report to radio and television stations. The two companies also have reached an agreement to jointly market their respective advertising expenditure tracking services.

The agreement, which is subject to government approval, gives Arbitron sole representation of the Scarborough report to broadcasters. VNU and

Arbitron will jointly market the service to advertisers and agencies, and VNU will continue to exclusively market the report to the print media. The Scarborough report subscription list among TV stations has grown from only 15 in 1988 to more than 100 now. Unlike other research services, Scarborough offers its materials to more than one station in a market. Stations, depending on market size, pay upwards of six figures for this service annually.

There is no word yet on how Arbitron and VNU will split subscriber revenue, although one industry figure speculated that the agreement would

be akin to a sales contract, with Arbitron getting some sort of commission on each subscription.

VNU and Arbitron have not decided whether one or both companies will market their advertising expenditure reports. Arbitron is the licensee of Broadcast Advertiser Reports (BAR) and Radio-TV Reports, while VNU is the licensee of Leading National Advertiser reports (LNA) and Radio Expenditure Reports (RER).

Livek will remain with VNU through the transition period, but does not necessarily expect to remain with the company or to be a part of the joint venture with Arbitron. ■

WIRELESS CABLE ATTACKS S.12 ATTACKERS

WCA's Schmidt predicts cable bill opponents will single out program-access provision

By Randy Sukow

The cable industry and Senate opponents of the Cable Television Consumer Protection Act (S. 12) will attack the bill's program-access provision when Congress returns next month, according to the Wireless Cable Association (WCA). "S. 12 is a pretty good piece of legislation, we believe, because of its access-to-programing provision," said WCA President Robert Schmidt. "The cable industry has now decided that its best tactical strategic plan is to focus on this provision and do its best to either eliminate it or drastically reduce the impact of it."

S. 12's program-access provision states: "National and regional programmers that are affiliated with cable operators are barred from unreasonably refusing to deal with distributors" such as wireless cable, direct broadcast satellite, home satellite and other alternative services. Stronger language favoring alternative distributors is written into the House version of the bill (H.R. 3560).

The Senate had originally planned to vote on the bill this year, but a busy fall agenda forced a postponement until Jan. 27, 1992 (BROADCASTING, Nov. 18). Opponents of S. 12, including Senate Minority Leader Bob Dole (R-Kan.) and three members of the Senate Commerce Committee, are preparing an alternative bill to draw attention away from S. 12. The substi-

tute is said to dilute the "effective competition" definition for rate regulation purposes and, to attract broadcaster support, add broadcast deregulation provisions such as lifting of the FCC's 12-12-12 ownership limits on AM, FM and TV stations.

The substitute bill will also contain, according to Schmidt, language to make it harder for wireless cable systems to obtain programing.

In retaliation, WCA is organizing a grassroots campaign to pass S. 12. Revealing the details of the campaign may be a tactical risk, "but I think when you're David facing Goliath, you play your hand open," Schmidt said during a press conference at WCA's Washington headquarters last Thursday (Dec. 19). He would not give an exact figure for the campaign's budget, but indicated it would probably be less than \$1 million.

A number of groups appeared at the press conference to endorse WCA's campaign, including the Consumer Federation of America and Consumers of PAY-TV of America (CPA), a start-up group formed to represent pay-TV consumers.

Program-access legislation is critical to the survival of wireless cable, Schmidt said. Some cable services, such as TNT, currently refuse to deal with wireless cable systems, and others charge inflated rates compared with what they charge conventional wired systems. Passage of cable legislation without program access but

with retransmission consent (the right for broadcasters to receive payment for retransmission of their signals) would be the worst scenario, Schmidt said. Contracts between broadcasters and cable systems could include exclusivity clauses blocking retransmission of local broadcast stations on wireless cable. ■

ACT III-ABRY IN TROUBLE

Ellis calls proposed merger 'deader than a doornail'

By Joe Flint

The Act III Broadcasting-ABRY Communications deal is in dire straits, and according to one party involved it has actually collapsed. Act III Broadcasting President Bert Ellis sent a memo to the eight Act III stations last week saying the merger would not happen and told BROADCASTING the deal is "deader than a doornail."

ABRY partner Andrew Banks declined to comment on the state of the merger.

While neither party would comment on what specifically is dragging the deal down, industry sources pointed