

Dow Jones Indust. Avg. **18,169.68**
 Down 29.65

Business

Nasdaq Comp. **5,215.98**
 Down 34.29

25
 New York Post, Friday, October 28, 2016
 nypost.com

BUSINESS BRIEFS

Level 3 linkup

Level 3 Communications and CenturyLink are in advanced talks to merge, according to informed sources, in a deal that would create an enterprise telecommunications player worth more than \$50 billion.

Try, try again

American Apparel is preparing for its second bankruptcy filing in as many years, according to sources, capping a tumultuous stretch that included tumbling sales, red ink and a split with controversial founder Dov Charney.

GNC plunges

Shares of nutritional-products retailer GNC plunged 24 percent, to \$15.13, after it reported a steeper-than-expected decline in third-quarter earnings on a more than 8 percent drop in sales.

Sirius-ly, 1¢

Sirius XM initiated a quarterly dividend of a penny a share and boosted its share-buyback program by \$2 billion, as the satellite radio company said profit rose 17 percent. Shares slid 3 percent, to \$4.11.

Aetna O woe

Aetna warned that losses from its Obamacare individual insurance plans will likely continue despite pulling out of the exchanges in most states, creating uncertainty for next year's earnings.

Sources: AP, Dow Jones, Reuters and Post wires

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Man who knows...



Manuela Herzer (in silhouette) is taking film noir cues in her approach to the deposing of her legal foe and former roomie, billionaire mogul Sumner Redstone.

Herzer strikes back at ex-pal Redstone

By RICHARD MORGAN

One of the two ex-gal pals accused by billionaire Sumner Redstone of fleecing him out of \$150 million wants a word — or several — with the mogul.

Manuela Herzer struck back on Thursday by demanding to question the 93-year-old executive under oath.

Herzer, who was named in an elder-abuse suit filed by Redstone on Tuesday, contends all the gifts she got from her ex-boyfriend were made with his full consent and blessing.

She is seeking to have Redstone deposed at his \$20 million Beverly Hills mansion on Nov. 8 — and plans to be there for the showdown, according to her lawyer, Ronald Richards.

So does an expert to evaluate Redstone's level of capacity and cognitive dysfunction, Richards said.

Herzer claims Redstone's suit is really the handiwork of daughter Shari Redstone,

who with her father controls a \$40 billion media empire that includes CBS and Viacom.

"Mr. Redstone does not get a bye because he is rich or special," Richards told The Post. "The deposition will expose the theater his daughter, Shari Redstone, is engaging in at his expense."

Herzer began dating Redstone in 1999 and reappeared in his life as a close friend and confidante in 2009. She moved into his mansion in 2013, having been invited to do so by Redstone and Sydney Holland, his girlfriend and housemate at the time.

Herzer and Holland are both defendants in the elder-abuse suit, which seeks to claw back the \$150 million. The two allegedly obtained the gifts by preying on Redstone's frail physical and mental condition.

Herzer's deposition request exploits an unusual California law that requires plaintiffs to sit for deposition within 10 days of a suit being filed, Richards said.

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SNOOP NO MORE

Web-tracking ban

By CLAIRE ATKINSON

The Federal Communications Commission on Thursday drove a stake through the heart of the \$77 billion online ad business, barring Comcast, Verizon and other internet service providers from automatically tracking consumers while they surf the Web.

The regulator, in a 3-to-2 landmark vote that increased internet privacy, ruled consumers have to give their OK before their online search history and other sensitive information is tracked and sold to advertisers. The new rule takes effect immediately.

The move threatens so-called targeted advertising, which is one of the main strategic benefits given by AT&T for acquiring Time Warner.

The change also frustrates Verizon's efforts to dominate the mobile ad arena via its AOL unit and its planned acquisition of Yahoo.

ISPs currently collect reams of consumer data on every Web surfer — from the internet sites they visit to the places they travel to — and even gain a glimpse into every person's health based on the searches undertaken and the apps used.

This info is then packaged and shared with advertisers to help tailor ads to people based on their interests.

Now, the FCC insists users must give their permission for such companies to collect and share this data.

"Addressable advertising plays a starring role in both AT&T's acquisition of Time

Warner and Verizon's acquisition of Yahoo," Craig Moffett, senior analyst at Moffett-Nathanson, told The Post. "The FCC's new rules put AT&T and Verizon at a big disadvantage to Google in targeting those ads."

Facebook and Google, which pockets 80 percent of online ad dollars, are not affected by the new rule.

First, they are not regulated by the FCC, and second, users must sign in — a process that contains an opt-in clause.

That gives them a huge advantage over phone and cable companies, according to Brian Wieser of Pivotal.

While consumer groups and privacy advocates cheered the new rule, the Interactive Ad Bureau attacked the move.

"Today, the FCC took an unfortunate step toward destabilizing the ad-supported internet economy," executive vice president Dave Grimaldi said.

EMarketer predicts that digital advertising will rise to \$77 billion next year, overtaking TV ad spending.

Rahul Telang, a professor of information technology at Carnegie Mellon University, told The Post he expects few people will opt in and allow themselves to be tracked.

"The rationale of AT&T and Time Warner [in pursuing the deal] was that it was going to lead to personalized TV advertising," he said. "If the ISPs are not able to do that profiling, some of those plans are in serious jeopardy." catkinson@nypost.com

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