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Spanish Language Media After the Univision-Hispanic Broadcasting Merger: Brief Overview

Charles B. Goldfarb
Specialist in Industrial Organization and Telecommunication
Research, Science, and Industry Division

Summary

U.S. broadcast policy, as mandated by Congress, is premised on the broad public policy objectives of competition, localism, and diversity of voices. Two identical bills (H.R. 3027 and S. 1563) would prohibit the FCC from approving any assignment or transfer of a broadcast television or radio license used to serve a language minority without a hearing regarding the effects on competition and diversity in the programming and distribution markets for the specific minority language at issue. The Federal Communications Commission ("FCC") has approved the merger of Univision Communications, Inc., the dominant Spanish language media company in the U.S., and Hispanic Broadcasting Corporation, the largest Spanish language radio operator in the U.S. The new entity has upwards of 80% of the audience and 70% of the advertising revenue of Spanish language media in the U.S. The 31.6 million U.S. Hispanic population is not linguistically homogeneous; 6.8 million speak English only, but 7.4 million speak English "not at all" or "not well." Most bilingual Hispanic adults primarily watch news programming in Spanish. This report is a condensed version of RL32116, which provides detailed tables of demographic, viewing, and market information for the Spanish speaking population as well as detailed analysis of public policy issues. This report will be updated as events warrant.

U.S. broadcast policy, as mandated by Congress and implemented by the Federal Communications Commission ("FCC" or "Commission") through its media ownership rules, is premised on the broad public policy objectives of competition, localism, and diversity of voices. The ownership restrictions in the FCC rules vary by market size, based on the total number of broadcast stations in a geographic market. (See CRS Report RL31925, *FCC Media Ownership Rules: Issues for Congress*.) In applying these rules, there has been debate about whether the relevant "diversity market" for reviewing mergers of Spanish language broadcast properties should include all outlets or only Spanish language outlets. Two identical bills (H.R. 3027 and S. 1563) would prohibit the FCC from approving any assignment or transfer of a broadcast television or radio license used

to serve a language minority without a hearing regarding the effects on competition and diversity in the programming and distribution markets for the specific minority language at issue, and also would require the FCC to report to Congress regarding the ownership and control of broadcast stations used to serve language minorities.

On September 8, 2003, the FCC approved in a 3-2 vote the merger of Univision Communications, Inc., the dominant Spanish language media company in the U.S. (which owns the leading Spanish language broadcast television network, cable television network, television station group, music recording and publishing company, and Internet site) and Hispanic Broadcasting Corporation (“HBC”), the largest Spanish language radio operator in the U.S.¹ *Business Week* has estimated that the combined Univision-HBC will reach more than 80% of Hispanic viewers and listeners and receive about 70% of Hispanic media’s advertising revenues.² In reaching its decision, the Commission applied its media ownership rules, taking into account the total number of broadcast stations in each geographic market. Based on that calculation, it required Univision to divest one television station in Houston and one in Albuquerque.³ The Commission explicitly rejected the argument that there is something unique about the needs of the Spanish language population in the U.S. or about the financing, production, or distribution of Spanish language programming for U.S. households, that requires a distinction to be made between Spanish language media outlets and other media outlets.

There were 38.8 million people in the United States in July 2002 who identified as Hispanic or Latino⁴ -- 13% of the total population -- making the Hispanic community the

¹ *In the Matter of Shareholders of Hispanic Broadcasting Corporation (Transferor) and Univision Communications, Inc. (Transferee) For Transfer of Control of Hispanic Broadcasting Corporation, and Certain Subsidiaries, Licensees of KGBT (AM), Harlingen, TX et al.*, File Nos. BTC, BTCH, BTCFTB-20020723ABL-ADS, and BTCH-20021125ABD-ABH, MB Docket No. 02-235, Memorandum Opinion and Order, adopted September 8, 2003, released September 22, 2003 (“Univision Order”).

² Catherine Yang, “A Test for Big Media: Bueno o Malo?,” *Business Week*, May 12, 2003, at p. 70. But given that Telemundo, the second largest Spanish language television network, by itself, receives 35% of Spanish language broadcast *network* revenues, the *Business Week* estimate may be too high.

³ As part of the Department of Justice Final Judgment in the Univision-HBC merger (*United States of America v. Univision Communications Inc. and Hispanic Broadcasting Corporation*, Civil Action No. 1:03CV00758, Final Judgment, filed 3/26/03, at pp. 4-5), Univision is required to exchange all of its voting equity interest in Entravision Communications Corp. to nonvoting equity interest immediately and to reduce its ownership interest in Entravision from 31% to 15% within three years and to 10% within six years. Entravision owns and/or operates 58 radio stations in the top 50 Hispanic markets and with its network affiliates has coverage of 56% of the U.S. Hispanic population. Entravision also owns 41 television stations that have affiliate contracts with either the Univision television network or the TeleFutura television network, both of which are owned by Univision, running through 2021. (See Entravision Communications Corporation Form 10-K filed with the Securities and Exchange Commission on 2/14/03, at pp. 4-6.

⁴ In this report “Hispanic,” “Latino,” and “Hispanic-American” are used interchangeably. The various sources cited in the report use one or more of these to connote the same population.

largest minority community in the country according to the Census Bureau.⁵ The Hispanic population in the United States has doubled since 1980; Hispanics accounted for half the country's population growth in the two years after the 2000 Census was taken.⁶ The Hispanic population also is experiencing the fastest growth rate in spending power of all ethnic and racial groups in the U.S.⁷ Hispanic consumers in the U.S. will control about \$653 billion in spending power in 2003.⁸ Over the eighteen-year period, 1990-2008, the nation's Hispanic buying power is projected to grow at a compound rate of 8.8%, from \$222 billion in 1990 to \$1,104.2 billion in 2008; the comparable growth rate for non-Hispanics is 4.9%.⁹ However, the 2000 Census found that in 1999 Hispanic households had a median income of \$33,676, or 80% of the overall U.S. median household income of \$41,994.¹⁰

The Hispanic community is not linguistically homogeneous. Of the 31.6 million people 5 years or older who identified as Hispanic or Latino in the 2000 Census,¹¹ 6.8 million speak English only, while 24.6 million speak Spanish and also English at varying levels of proficiency. Of the latter, 7.4 million, or almost one-fourth of the Hispanic population, speak English "not at all" or "not well." Almost half (47%) of adult Hispanics are "Spanish dominant."¹² The remaining adult Hispanics split between those who are

⁵ See D'Vera Cohn, "Hispanics Are Nation's Largest Minority," *The Washington Post*, June 18, 2003, at p. A1.

⁶ *Id.* at p. A1.

⁷ Jeffrey M. Humphreys, "The multicultural economy 2003: America's minority buying power," Selig Center for Economic Growth, Terry College of Business, The University of Georgia, Georgia Business and Economic Conditions, Volume 63, Number 2, Second Quarter 2003 ("Selig Study").

⁸ *Id.* at p. 6.

⁹ *Id.* at p. 6.

¹⁰ Table DP-3, Profile of Selected Economic Characteristics: 2000, Income in 1999, Data set: Census 2000 Summary File 3 (SF 3) - Sample Data and Table P152H, Median Household Income in 1999 (Dollars)(Hispanic or Latino Householder)[1] - Universe, Households with a householder who is Hispanic or Latino, Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data. Viewed on 10/10/03 at [<http://www.census.gov>] by selecting "American Factfinder," then under "Data Sets" selecting "2000 Summary File 3," then selecting "Quick Tables," then selecting and adding "Nation" from the drop-down menu for geographic type, then selecting and adding Table "DP-3," then selecting "Show Result," and then by selecting "American Factfinder," then under "Data Sets" selecting "2000 Summary File 3," then selecting "Detailed Tables," then selecting and adding "Nation" from the drop-down menu for geographic type, then selecting and adding Table "P152H," then selecting "Show Result."

¹¹ Table PCT11, Data set: Census 2000 Summary File 3 (SF 3) - Sample Data. Viewed on 10/10/03 at [<http://www.census.gov>] by selecting "American Factfinder," then under "Data Sets" selecting "2000 Summary File 3," then selecting "Detailed Tables," then selecting and adding "Nation" from the drop-down menu for geographic type, then selecting and adding Table "PCT11," then selecting "Show Result."

¹² Pew Hispanic Center and Kaiser Family Foundation, 2002 National Survey of Latinos, December 2002, at p. 16.

English dominant (25%) and those who are bilingual (28%).¹³ Spanish dominant Latinos reported having lower incomes than those who are bilingual or those who are English dominant. 65% of Spanish dominant Latinos reported earning less than \$30,000 a year while those who are bilingual or English dominant were more likely to earn over \$30,000 a year, and particularly more likely to earn annual incomes of \$50,000 or more a year.¹⁴

Survey data indicate that Latino households tend to watch television as a family, rather than as individuals;¹⁵ when family members have varying levels of English proficiency, the family is likely to watch Spanish language programming – particularly for news – to accommodate those with limited understanding of English. As a result, 57% of all bilingual (Spanish-English) Latino adults prefer to watch primarily Spanish language news programming on television.¹⁶

The growth in Hispanic buying power and its favorable demographics of young, urban adults has attracted advertisers and investors. From 1992 to 2002, the number of broadcast radio stations with primarily Spanish language programming formats grew 91%, from 360 to 687;¹⁷ during the same period, the total number of radio stations in the U.S. increased by only 19%, from 11,117 to 13,193.

Today there are approximately 135 full power and low power broadcast television stations in the U.S. offering primarily Spanish language programming.¹⁸ In addition, most Hispanic households have access to a large number of Spanish language networks over cable or satellite. Some of these networks are available as part of enhanced basic service packages, some are available as part of premium packages at additional charges, and some

¹³ Id. at p. 16.

¹⁴ Id. at p. 17.

¹⁵ Louis DeSipio, “Latino Viewing Choices: Bilingual Television Viewers and the Language Choices They Make,” The Tomás Rivera Policy Institute, Claremont, CA, May 2003, at p. 6.

¹⁶ Id. at pp. 14-15.

¹⁷ *M Street Radio Directory*, Eleventh Edition, 2002-2003, “Format Statistics: Primary Format,” at p. 18. Various industry sources provide different figures. According to the summary sheet provided in *Broadcasting & Cable Yearbook, 2002-2003* (at p. D-662), there were 580 Spanish language formatted radio stations in the U.S. in 2002, 543 commercial and 39 non-commercial; 587 stations are listed in its detailed station listings (at pp. D-693 - D-694). According to TIYM Publishing Company’s *Anuario Hispano* or *Hispanic Yearbook* (at [http://www.hispanicyearbook.com], viewed on 10/10/03 by using “Search the DATABASE” to get a drop-down menu, then selecting “List of Hispanic Radio Stations” and “Search”), there were 630 Spanish language radio stations in 2002.

¹⁸ According to Kagan World Media, *The Television Station Deals and Finance Databook 2002*, April 2002 (at p. 45, U.S. TV Station Summary), there were 134 Spanish language stations in 2001, 123 in 2000, and 125 in 1999. According to Media Market Resources, *First quarter 2003 TV Datatrak* (at pp. 135 ff, Commercial Format Requirements), which identifies each television station that accepts commercial advertising, there were 122 stations with Spanish language programming. TIYM Publishing Company Inc.’s *Hispanic Directory* for 2002 lists 157 Spanish language television stations (at [http://www.hispanicyearbook.com], viewed on 10/10/03 by using “Search the DATABASE” to get a drop-down menu, then selecting “List of Hispanic TV Stations” and “Search”), but this list includes what appears to be multiple listings for broadcasts originating at a single location and several cable television channels.

are available on a pay per view basis. Both Echostar and DirectTV offer Spanish language packages with about 20 channels of video programming and 8 or more digital audio channels.¹⁹

Univision president Ray Rodriguez is reported to assert that although Spanish language television now attracts 5% of the total U.S. television audience, it captures only 2% of television advertising revenues.²⁰ There is evidence, however, that the market is responding to demographic changes and rapidly reducing the gap between the audience share and the advertising share of Spanish language programming. While advertising revenues for all media grew by only 2.2% in 2002, they grew by 25.5% for the two major Spanish language companies, Univision and Telemundo.²¹ According to *Advertising Age*²² and *Broadcasting & Cable*,²³ most of the growth in the Hispanic market is fueled by new “mainstream” advertisers, such as Absolut, Fruit of the Loom, Best Buy, Staples, Energizer, and Target, entering the market. The majority of advertising targeting the Hispanic market is in Spanish.

At the same time, there are strong market forces propelling consolidation in the U.S. media sector (see CRS Report RL32026, *Market Dynamics and Public Policy Issues in the Video Programming Industry*, and CRS Report RL32027, *Market Structure of the Video Programming Industry and Emerging Public Policy Issues*). These forces exist for Spanish language media outlets as well as English language outlets. Univision has asserted that its merger with HBC is in the public interest because it gives it the size and scope needed to compete with English language media giants for national advertising dollars. Opponents of the merger argued that the merger of two dominant Spanish language media companies reduced the number of independent Spanish language voices available to Spanish speaking viewers and listeners and potentially raises barriers to competitive entry by other companies offering Spanish language programming.

The high horizontal and vertical concentration in the Spanish language media industry creates several potential threats to the Congressional goals of competition, localism, and diversity of voices. Just as is the case for English language cable channels,²⁴ successful launch of a new cable network depends on that network being carried by major multi-system cable operators (“MSOs”) and/or satellite systems. These media giants

¹⁹ [<http://www.directv.com/DTVAPP/see/ParaTodosChannels.jsp>], viewed 8/27/2003 and [http://www.dishnetwork.com/content/programming/packages/dish_latino/index.asp?viewby=1&packid=10092&sortby=1], viewed 9/2/2003.

²⁰ Frank Ahrens and Krissah Williams, “Spanish-Language Media Expand: Broadcasters, Newspapers Pursue Fast-Growing Market,” *Washington Post*, August 11, 2003, at pp. A1 and A10, citing Univision president Ray Rodriguez.

²¹ Data from New York-based advertising tracker CMR, presented in Steve McClellan, “Arriba, Arriba, Arriba,” *Broadcasting & Cable*, November 25, 2002, at p. 20.

²² Laurel Wentz, “Cultural Cross Over: A growing number of savvy marketers reach out in English as well as Spanish,” *Advertising Age*, July 7, 2003, at pp. S-1 and S-2.

²³ Allison Romano, “Finally, Some New Advertisers,” *Broadcasting & Cable*, September 8, 2003, at p. 36.

²⁴ See CRS Report RL32026, *Market Dynamics and Public Policy Issues in the Video Programming Industry*, July 28, 2003, at pp. 11-12.

typically will be negotiating from a position of strength unless the program producer has a unique offering that creates countervailing leverage. For example, the popularity of the Univision broadcast network can be used by Univision to help obtain cable and satellite carriage of TeleFutura and other Univision channels as well – a market advantage that independent Spanish language programmers lack. The need for such leverage has created market incentives for all producers – whether of English language programming or of Spanish language programming – to consolidate. But it also means that it is much more likely that Univision will be able to launch new Spanish language cable networks than will independent program producers unless those program producers give the MSO or satellite systems a substantial equity interest.²⁵

For effective competition to Univision to develop, competitors will have to increase their relatively small audience shares. Telemundo, which owns the second largest Spanish language television network and a major Spanish language television station group but nonetheless is a distant second to Univision, asserts that the most effective way to reach potential viewers to inform them of its new programs is by advertising on other Spanish language outlets, especially radio outlets, that have large audiences. That claim appears to be supported by Telemundo spending 74% of its 2002 advertising budget on radio.²⁶ Most of the major Spanish language television and radio stations in the largest Hispanic markets are owned by Univision or Entravision (which is 30% owned by Univision). Telemundo has alleged that Entravision stations have refused to accept advertising from Telemundo to promote its programming, thus depriving it of access to the most efficient means to inform viewers of its programming.²⁷

As explained in CRS Report RL32026,²⁸ one of the market dynamics driving consolidation is the efficiency gains from being able to market programs across multiple media outlets. Firms have integrated to improve the coordination of these program marketing efforts. If some competitors are denied access entirely or in part to the dominant media outlets, which may have upwards of 80% of the audience share, then they will only have access to inferior marketing outlets. When a company is trying to reach and inform the Spanish speaking community in the U.S. about its product – even a media product – if it is denied access to dominant media outlets it may be placed at a significant competitive disadvantage. While Univision, for example, has no obligation to allow its competitors to piggyback off the popularity of its programming, given its market dominance refusing to accept advertising may have anticompetitive consequences.

Entravision's refusal to air Telemundo advertisements, if practiced by all Univision-related media outlets, could result in the dominant television/radio combination denying its television competitors access to a majority of Spanish speaking radio listeners and television viewers. Absent rules that prohibit such conduct, consolidation that extends a dominant firm's reach potentially denies key access to competitors.

²⁵ Id. at pp. 11-12.

²⁶ August 21, 2003 Telemundo *Ex Parte* to the FCC, at p. 4.

²⁷ Id. at p. 4.

²⁸ CRS Report RL32026, *Market Dynamics and Public Policy Issues in the Video Programming Industry*.