

# CRS Report for Congress

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## **Spanish Language Media After the Univision-Hispanic Broadcasting Merger: Issues for Congress**

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# Spanish Language Media After the Univision-Hispanic Broadcasting Merger: Issues for Congress

## Summary

On September 8, 2003, the Federal Communications Commission approved 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. The Commission explicitly rejected the argument that there is something unique about the needs of the Spanish speaking 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.

The Hispanic community is the largest minority community in the U.S., but it is not linguistically homogeneous. Although most Hispanics speak English well, almost 8 million Hispanics speak English either “not at all” or “not well.” Survey data indicate that Latino households tend to watch television as a family, rather than as individuals; 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, more than half of all bilingual (Spanish-English) Latino adults prefer to watch primarily Spanish language news programming on television. The demand by advertisers to reach the rapidly growing buying power of the Spanish speaking population has attracted investment capital to the Spanish language broadcasting industry. There are far more broadcast television and radio stations, as well as broadcast, cable, and satellite channels, serving the Spanish speaking population than ever before. Although Spanish language outlets have captured a smaller share of advertising revenues than of audience, their advertising revenues are the most rapidly growing in the media industry. At the same time, especially after the Univision-HBC merger, ownership and control of Spanish language media in the U.S. are far more concentrated than the media overall.

U.S. broadcast policy, as mandated by Congress, is premised on the broad public policy objectives of competition, localism, and diversity of voices. Congress has not explicitly addressed whether or how those objectives should be pursued for particular subsets of the population, such as the Spanish speaking population. 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. This report provides detailed tables of demographic, viewing, and market information for the Spanish speaking population as well as detailed analysis of public policy issues.

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# Spanish Language Media After the Univision-Hispanic Broadcasting Merger: Issues for Congress

## Introduction

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. Congress has not explicitly addressed whether or how those objectives should be pursued for particular subsets of the population, such as the Spanish speaking population. 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.

The ownership restrictions in the FCC rules vary by market size, based on the total number of broadcast stations in a geographic market.<sup>1</sup> 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.

On September 8, 2003, the Federal Communications Commission 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.<sup>2</sup> 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

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<sup>1</sup> See CRS Report RL31925, *FCC Media Ownership Rules: Issues for Congress*.

<sup>2</sup> *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”).

Houston and one in Albuquerque. 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.

The Hispanic community is the largest minority community in the U.S., but it is not linguistically homogeneous. Although most Hispanics speak English well, almost 8 million Hispanics speak English either “not at all” or “not well.” Survey data indicate that Latino households tend to watch television as a family, rather than as individuals; 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, more than half of all bilingual (Spanish-English) Latino adults prefer to watch primarily Spanish language news programming on television.

The demand by advertisers to reach the rapidly growing buying power and youthful, urban demographics of the Spanish speaking community has attracted both national advertising and investment capital to the Spanish language broadcasting industry. There are far more broadcast television and radio stations, as well as broadcast, cable, and satellite channels, serving the Spanish speaking community than ever before.

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. Currently Spanish language programming receives only a small – though rapidly growing – share of those national advertising dollars. But that 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 2000 U.S. Census awakened many Americans to the size, buying power, and linguistic diversity of the Hispanic population in the United States. Since then, analysts at the Census Bureau, research foundations, and market research organizations have mined the Census data and performed additional surveys that significantly expand the information available on the demographic, purchasing, and viewing characteristics of the Hispanic population. These rich data sources show the Hispanic population is not homogeneous, but rather includes subgroups with very different needs and demands for Spanish language programming. Selective review of the data therefore could lead to one of two simplistic conclusions – that English language programming provides all Hispanics a good alternative to Spanish language programming or that English language programming does not serve the Hispanic population at all. Neither conclusion accurately describes the far more complex

reality. The language in the Commission's Univision Order did not systematically analyze and publicly present the nuanced data available.

The purpose of this report is to provide Congress with detailed demographic, market, and television viewing data for the Hispanic population that are relevant to the goals of competition, localism, and diversity of voices. In order to analyze and evaluate public policy options, information is needed on the demographic, income, buying power, and spending characteristics of the Hispanic population, the radio listening and television viewing patterns of the Hispanic population, and the responses of advertisers and capital investors to the growth in the Hispanic population and its buying power. CRS Report RS21645 presents a condensed version of this report.

## Demographics of the Spanish Speaking Population

Demographic data about the size and linguistic ability of the Spanish speaking population help inform public policy makers. Millions of Americans have primary languages other than English; the federal government has not adopted media rules for each of these foreign speaking populations. For example, the FCC has not expressed concern about the diversity of voices for the Chinese speaking population in the U.S. that does not speak English. The Spanish speaking population in the U.S. is uniquely large and includes a uniquely large cohort that does not speak and/or comprehend English well. This raises the issue of whether policy makers should consider implementing rules specific to that population.<sup>3</sup>

The Hispanic<sup>4</sup> population in the United States has doubled since 1980.<sup>5</sup> There were 38.8 million people in the United States in July 2002 who identified as Hispanic or Latino -- 13% of the total population -- making the Hispanic community the largest minority community in the country according to the Census Bureau.<sup>6</sup> Hispanics accounted for half the country's population growth in the two years after the 2000 Census was taken.<sup>7</sup> Despite the strong effect of immigration, only 40.2%

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<sup>3</sup> The FCC has identified the uniqueness of foreign language programming, in general, and Spanish language programming, in particular, in meeting needs of foreign speaking audiences in a number of decisions involving ownership, cable carriage requirements, and closed captioning. See "Joint Statement of Commissioners Jonathan S. Adelstein and Michael J. Copps, Dissenting," attached to the Univision Order, at pp. 41-42.

<sup>4</sup> 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.

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

<sup>6</sup> Id. at p. A1.

<sup>7</sup> Id. at p. A1.

(or 15 million) of the Hispanic population in the U.S. was foreign born.<sup>8</sup> In 2002, 34.4% of Hispanics in the U.S. were under 18, compared with 25.7% of the total population.<sup>9</sup>

The Hispanic community is not linguistically homogeneous, however. As shown in Table 1, of the 31.6 million people 5 years or older who identified as Hispanic or Latino in the 2000 Census, 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.”

**Table 1: Language Spoken at Home, by Ability to Speak English, for the Hispanic/Latino Population 5 Years and Over**

	Number	Percent of Hispanic Population
Total Hispanic Population	31,569,576	100.0%
Speak only English	6,764,744	21.4%
Speak Spanish:	24,636,215	78.0%
and Speak English “very well”	11,874,405	37.6%
and Speak English “well”	5,323,330	16.9%
and Speak English “not well”	4,675,560	14.8%
and Speak English “not at all”	2,762,920	8.8%
and Speak another language	168,617	0.5%

**Source:** 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.”

The Census Bureau also has collected data on the total number of people who speak Spanish in their homes. This category is not limited to people who identify as Hispanic or Latino (there are approximately 3.5 million people in the U.S. who do not identify as Hispanic or Latino but stated that they speak Spanish in their homes),

<sup>8</sup> Roberto R. Ramirez and G. Patricia de la Cruz, “The Hispanic Population in the United States: March 2002,” Current Population Reports, U.S. Census Bureau, issued June 2003, at p. 3.

<sup>9</sup> Table 1.1, “Population by Sex, Age, Hispanic Origin, and Race: March 2002,” U.S. Census Bureau, Current Population Survey, March 2002, Ethnic and Hispanic Statistics Branch, Population Division, Internet Release date: June 18, 2003.



but excludes Hispanics who do not speak Spanish.<sup>10</sup> As shown in Table 2, approximately 28 million people over the age of 5 speak Spanish in their homes. Of these, just under 8 million – or 28% – speak English “not well” or “not at all.”

**Table 2: Population 5 Years and Over Who Speak Spanish at Home, and Ability to Speak English**

	Number	Percent
Speak Spanish in their home	28,101,052	100.0
and Speak English “very well”	14,349,796	51.1
and Speak English “well”	5,819,408	20.7
and Speak English “not well”	5,130,400	18.3
and Speak English “not at all”	2,801,448	10.0

**Source:** Table QT-P17, Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data, Matrices P19, P20, PCT13, and PCT14. 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 “QT-P17,” then selecting “Show Result.”

Census also identifies “linguistically isolated *households*,” which it defines as households

in which no member 14 years old and over (1) speaks English or (2) speaks a non-English language and speaks English ‘very well.’ In other words, all members 14 years old and over have at least some difficulty with English.<sup>11</sup>

According to Census, of the 10,771,168 households in the U.S. in 2000 in which Spanish was spoken, 2,571,597 – almost 25% – were identified as linguistically isolated.<sup>12</sup> Most of those households are located in a small number of cities with large Hispanic populations.

Several independent, non-partisan foundations and research centers perform surveys and collect data on Hispanics in the United States that augment the Census data. Between April and June 2002, the Pew Hispanic Center and Kaiser Family

<sup>10</sup> The Census survey question did not specify how frequently Spanish must be spoken in the home (e.g., all the time, most of the time, 25% or more of the time) to trigger a positive response to the question. Rather it was left to the discretion of the respondent to provide a positive or negative response. (Telephone conversation with Hyon Shin, analyst with the Census Bureau.)

<sup>11</sup> Table P20, “Household Language by Linguistic Isolation,” Dataset: 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 “P20,” then selecting “Show Result.”

<sup>12</sup> Id.

Foundation performed a survey that included 2,929 adult respondents who identified themselves as being of Hispanic or Latino origin (“Pew/Kaiser Survey”).<sup>13</sup> Because the survey excluded children 18 or younger, it showed a far larger percentage of Latinos being foreign born<sup>14</sup> than did the Census data – 63% vs. 40%.<sup>15</sup> The survey found that:

- Based on responses to questions about their spoken and reading language ability,<sup>16</sup> almost half (47%) of adult Hispanics are “Spanish dominant.” The remaining adult Hispanics split between those who are English dominant (25%) and those who are bilingual (28%).<sup>17</sup>
- Native-born adult Latinos are much more likely than foreign-born adult Latinos to speak English as their primary language (61% vs. 4%) or to be bilingual (35% v. 24%), while foreign-born adult Latinos are much more likely than native-born adult Latinos to be Spanish dominant (72% vs. 4%).<sup>18</sup>
- Those who arrived in the U.S. when they were age 10 or younger may have experiences more similar to Hispanics who were born in the U.S. than to others who are foreign-born. In particular, foreign-born Hispanics who arrive at a young age are much more likely to speak English as adults and will have received a majority of their education from American schools. In contrast, foreign-born Hispanics who arrived when they were older, particularly those who arrived when they are already age 26 and older, are more likely to be Spanish dominant than those who arrived when they were younger.<sup>19</sup>

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<sup>13</sup> Pew Hispanic Center and Kaiser Family Foundation, 2002 National Survey of Latinos, December 2002, at p. 100.

<sup>14</sup> The Pew/Kaiser Survey, at p. 12, defined “foreign-born Latinos” (also referred to as “Latinos born outside of the United States”) as “those who were born outside any of the fifty states as well as those who were born on the island of Puerto Rico, a commonwealth associated with the United States.”

<sup>15</sup> *Id.* at p. 12.

<sup>16</sup> Respondents were asked a series of four questions about their language ability. They were asked about their ability to carry on a conversation in Spanish and to carry on a conversation in English (“Would you say you can carry on a conversation in Spanish/English, both understanding and speaking – very well, pretty well, just a little, or not at all?”) and their ability to read in English and in Spanish (“Would you say you can read a newspaper or book in Spanish/English – very well, pretty well, just a little, or not at all?”). Based on their answers to these four questions, respondents were divided into three language groups: English dominant, bilingual, and Spanish dominant. Pew/Kaiser Survey at p. 16.

<sup>17</sup> Pew/Kaiser Survey at p. 16.

<sup>18</sup> *Id.* at p. 13.

<sup>19</sup> *Id.* at p. 14.

- A large majority (72%) of first generation (i.e., foreign-born) adult Latinos are Spanish dominant, 24% are bilingual, and 4% are English dominant. In contrast, second generation adult Latinos are mostly divided between those who are English dominant (46%) and those who are bilingual (47%). Third generation or “higher” adult Hispanics are largely English dominant (78%), with an additional 22% being bilingual; none are Spanish dominant.<sup>20</sup>
- Spanish dominant Latinos reported having lower incomes than those who are bilingual or those who are English dominant. As shown in Table 3, the majority 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.<sup>21</sup>

**Table 3: Household Income Among Latinos, by Primary Language**

Household Income	Spanish Dominant	Bilingual	English Dominant
Less than \$30,000	65%	37%	35%
\$30,000 to less than \$50,000	16%	31%	29%
\$50,000 plus	4%	26%	29%
Don't know	15%	6%	7%

**Source:** Pew Hispanic Center and Kaiser Family Foundation, 2002 National Survey of Latinos, December 2002, Table 1.11, Household Income Among Latinos, by Primary Language, at p. 17.

- Almost three in ten adult Latinos reported having problems with health care providers due to language barriers. As shown in Table 4, these experiences are more common among those who are Spanish dominant and among those who were born outside the United States.<sup>22</sup>

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<sup>20</sup> Id. at p. 16.

<sup>21</sup> Id. at p. 17.

<sup>22</sup> Id. at p. 96.

**Table 4: Latinos Reporting Difficulties During the Past 12 Months Communicating with Providers and Getting Health Care, by Foreign/Native Born and by Primary Language**

	Total Latinos	Foreign Born Latinos	Native Born Latinos	Spanish Dominant	Bilingual	English Dominant
Problem (Net)	29%	42%	8%	49%	16%	8%
Major Problem	12%	17%	3%	21%	5%	3%
Minor Problem	17%	25%	5%	28%	11%	5%
Not a Problem	70%	58%	91%	50%	83%	92%

**Source:** Pew Hispanic Center and Kaiser Family Foundation, 2002 National Survey of Latinos, December 2002, Table 6.4, Latinos Reported Difficulties Communicating with Providers and Getting Health Care, by Foreign/Native-Born and by Primary Language, at p. 97.

Given the rapid growth in the Hispanic population and in the number of advertisers who seek to reach that population, Nielsen Media Research has begun collecting demographic and viewing data on Hispanic households. As shown in Table 5, the number of Hispanic-American *television households* in the United States grew by 19%, from 7.51 million to 8.94 million, during the period 1996-2001. During the same period, the number of Spanish dominant television households – defined as homes where only Spanish or mostly Spanish is spoken – grew by 29%, from 3.54 million to 4.55 million.

**Table 5: Hispanic-American Television Population Growth Trends**

Year	Hispanic-American Television Households (in millions)	Spanish Dominant Hispanic-American Television Household (in millions)
2000-2001	8.94	4.55
1999-2000	8.67	4.24
1998-1999	8.26	4.00
1997-1998	7.74	3.68
1996-1997	7.51	3.54

**Source:** Nielsen Media Research, Inc.

[[http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/hisp\\_pop\\_growth.html](http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/hisp_pop_growth.html)], viewed 10/10/03.

Nielsen also estimated the number of Spanish dominant television households in individual markets, as shown in Table 6.

**Table 6: Hispanic and Spanish Dominant Households in Markets with Large Hispanic Populations**

Market Name	Total TV Households	Hispanic Households as % of Total TV Households	Total Hispanic TV Households	% Hispanic Households Spanish Dominant	Total Spanish Dominant TV Households
New York	6,935,610	15.3%	1,061,150	55.7%	591,060
Los Angeles	5,354,150	28.6%	1,531,130	57.3%	877,430
Chicago	3,244,850	10.5%	349,710	58.8%	200,340
San Francisco	2,431,720	14.4%	350,170	47.5%	166,330
Dallas	2,069,010	11.3%	233,800	60.1%	140,510
Houston	1,747,350	19.3%	337,240	57.4%	193,570
Miami	1,468,630	34.5%	506,680	67.7%	343,020
Phoenix	1,441,660	14.5%	209,040	46.9%	98,040
Sacramento	1,187,000	15.0%	178,050	43.7%	77,810
San Diego	996,220	19.4%	193,270	51.9%	100,310
San Antonio	693,810	46.5%	322,620	30.5%	98,400
Albuquerque	570,460	33.3%	189,960	20.9%	39,700
Fresno	519,200	34.5%	179,124	48.7%	87,230
El Paso	275,850	64.4%	177,650	49.9%	88,650
Harlingen	256,810	81.5%	209,300	55.5%	116,160
Corpus Christi	185,570	53.9%	100,020	23.2%	23,210

**Source:** Nielsen Media Research, Inc.

[<http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/16localmarkets.html>], viewed 10/10/03.

These demographic characteristics of the U.S. Hispanic population will likely change, however, as trends in immigration and fertility rates among immigrants and second and third generation Hispanics affect the population makeup. The Pew Hispanic Center released on October 14, 2003 a new study, “The Rise of the Second Generation: Changing Patterns in Hispanic Population Growth,”<sup>23</sup> that looked at these trends (and made projections into the future) and found:

- Since the 1970s, immigration has represented by far the fastest and largest source of Hispanic population growth and, as a result, the first generation – the foreign born – has become more numerous than the second or the third-plus generations – those born in the U.S. of U.S.-born parents. This demographic equation is now rapidly changing.<sup>24</sup>

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<sup>23</sup> Roberto Suro and Jeffrey S. Passel, “The Rise of the Second Generation: Changing Patterns in Hispanic Population Growth,” Pew Hispanic Center, October 2003. The study is based on new projections of Hispanic population growth from 2000 to 2050 developed by Jeffrey S. Passel, a demographer and principal research associate at the Population Studies Center of the Urban Institute.

<sup>24</sup> Id. at p. 2.

- Hispanic births in the U.S. now are outpacing immigration as the key source of population growth. Over the next twenty years this is projected to produce an important shift in the makeup of the Hispanic population with second-generation Latinos – the U.S.-born children of immigrants – emerging as the largest component of that population.<sup>25</sup>
- As shown in Table 7, between 1970 and 2000 the Hispanic population grew by 25.7 million and immigrants accounted for 45% of that increase while the second generation accounted for 28%. As a result, in 2000 the first generation totaled 14.2 million people, or 40% of the Latino population, while the second generation counted 9.9 million, or 28%.<sup>26</sup>

**Table 7: Growth in U.S. Hispanic Population, 1970-2000: Immigrants Dominate Growth**

Change in the Hispanic Population, 1970-2000: 9.6 million to 35.3 million	Increase in Population	Percentage Growth	Share of Total Growth
Total Hispanic Population Growth	25,690,000	267%	100%
1 <sup>st</sup> Generation	11,515,000	436%	45%
2 <sup>nd</sup> Generation	7,132,000	259%	28%
3 <sup>rd</sup> + Generation	7,042,000	167%	27%

**Source:** Roberto Suro and Jeffrey S. Passel, “The Rise of the Second Generation: Changing Patterns in Hispanic Population Growth,” Pew Hispanic Center, October 2003, Table 1, at p. 3.

- The growth of the second generation accelerated in the 1990s and reached 63% for the decade, up from 52% in the 1980s, surpassing the growth due to immigration (55% in the 1990s and 78% in the 1980s) even as the nation experienced a record number of immigrants from Latin America.<sup>27</sup>
- Although the Latino immigrant population can be expected to continue increasing, the growth rate for the second generation has already gained sufficient momentum that it will remain higher than the first generation’s even if immigration flows accelerate. Second-generation births are a demographic echo of immigration and the high fertility among immigrants. Larger numbers of Latino immigrants are projected to produce larger numbers of second-generation Latinos.<sup>28</sup>

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<sup>25</sup> Id. at p. 2.

<sup>26</sup> Id. at p. 3.

<sup>27</sup> Id. at p. 3.

<sup>28</sup> Id. at p. 3.

- As shown in Table 8, using a mid-range estimate of immigration flows,<sup>29</sup> the Hispanic population is projected to grow by 25 million people between 2000 and 2020. During that time period the second generation is projected to account for 47% of the increase compared to 25% for the first generation. The second generation is projected to more than double in size, increasing from 9.8 million in 2000 to 21.7 million in 2020. At that point the second generation is projected to outnumber the 20.6 million first generation Hispanics.<sup>30</sup>

**Table 8: Projected Growth in U.S. Hispanic Population, 2000-2020: 2<sup>nd</sup> Generation Dominates Growth**

Change in the Hispanic Population, 2000-2020: 35.3 million to 60.4 million	Increase in Population	Percentage Growth	Share of Total Growth
Total Hispanic Population Growth	25,118,000	71%	100%
1 <sup>st</sup> Generation	6,398,000	45%	25%
2 <sup>nd</sup> Generation	11,771,000	119%	47%
3 <sup>rd</sup> + Generation	6,949,000	62%	28%

**Source:** Roberto Suro and Jeffrey S. Passel, “The Rise of the Second Generation: Changing Patterns in Hispanic Population Growth,” Pew Hispanic Center, October 2003, Table 2, at p. 3.

## Hispanic Buying Power and Spending Patterns

Data on the income and buying power of the Hispanic population in the U.S. is important for policy makers. In general, in our market economy, government intervention in markets is limited to those instances in which market forces on their own will fail to meet policy goals, such as competition, localism, and diversity of voices. Broadcast radio and television are financially driven by advertising revenues. Advertisers are driven by the buying power and demographic characteristics of listeners and viewers. The ability of the market, on its own, to meet the radio and television needs of specific populations, such as the Spanish speaking population, will depend in large part on the buying power of that population. For example, the FCC has imposed certain children’s programming requirements on television stations because children do not have the buying power to attract advertisers to support such programming.

Of all ethnic and racial groups in the United States, the Hispanic population is experiencing the fastest growth rate in spending power, according to a detailed study

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<sup>29</sup> Following the logic of Census Bureau projections, the mid-range estimates assume that current rates of immigration persist through the decade followed by slight declines during the 2010s as the pool of potential entrants of immediate relatives is drawn down. *See* Roberto Suro and Jeffrey S. Passel, “The Rise of the Second Generation: Changing Patterns in Hispanic Population Growth,” Pew Hispanic Center, October 2003, at p. 5, footnote 1.

<sup>30</sup> Roberto Suro and Jeffrey S. Passel, “The Rise of the Second Generation: Changing Patterns in Hispanic Population Growth,” Pew Hispanic Center, October 2003, at p. 5.

performed by the Selig Center for Economic Growth at the University of Georgia.<sup>31</sup>  
The Selig Study found that:

- Hispanic consumers in the U.S. will control about \$653 billion in spending power in 2003.<sup>32</sup>
- 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%.<sup>33</sup>
- In 2008, Hispanics are projected to account for 9.6% of all U.S. buying power, up from 5.2% in 1990 and 7.3% in 2003; the group's share will rise in every state but Hawaii.<sup>34</sup>
- A relatively young Hispanic population, with larger proportions of Hispanics either entering the workforce for the first time or moving up on their career ladders, argues for additional gains in buying power, which will be even greater in this decade than in the 1990s. The increasing number of Hispanics who are successfully starting their own businesses is another factor powering the growth.<sup>35</sup>
- Hispanics and their buying power are much more geographically concentrated than non-Hispanics. California alone accounts for 28.9% of the Hispanic buying power. The five states and ten states with the largest Hispanic markets account for 68.5% and 81.1% of the Hispanic buying power, respectively. In contrast, the five states and ten states with the largest non-Hispanic markets account for 35.1% and 54.0% of total buying power, respectively.<sup>36</sup>
- In 2003, the Hispanic share of state buying power will be 30.7% in New Mexico, 19.0% in Texas, and 18.1% in California.<sup>37</sup>

However, according to the most recent *Consumer Expenditure Survey* prepared by the U.S. Bureau of Labor Statistics (covering the period 1996-1997 and released

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<sup>31</sup> 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").

<sup>32</sup> Selig Study at p. 6.

<sup>33</sup> Id. at p. 6.

<sup>34</sup> Id. at pp. 6 and 7.

<sup>35</sup> Id. at pp. 6-7.

<sup>36</sup> Id. at p. 7.

<sup>37</sup> Id. at p. 7.



in September 1999),<sup>38</sup> Hispanic households spent on average about 87% as much as the average non-Hispanic households -- but spent a higher proportion of their income on such goods and services as groceries, telephone services, furniture, small appliances, children's clothing, footwear, restaurants, housing, vehicle purchases, and gasoline and motor oil. Compared to the total population, Hispanics spent substantially smaller proportions of total outlays (and less money) on health care, entertainment, reading, education, life and other personal insurance, cash contributions, pensions and Social Security, and tobacco products.

The lower Hispanic households spending levels is consistent with data on household incomes. As shown in Table 9, 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.

**Table 9: U.S. Household Income and Hispanic Household Income in 1999**

Income Level	Total Number of U.S. Households	Percent of Total U.S. Households	Total Number of Hispanic Households	Percent of Total Hispanic Households
All incomes	105,539,122	100.0	9,272,610	100.0
Less than \$10,000	10,067,027	9.5	1,150,289	12.4
\$10,000 to \$14,999	6,657,228	6.3	722,783	7.7
\$15,000 to \$24,999	13,536,965	12.8	1,507,616	16.3
\$25,000 to \$34,999	13,519,242	12.8	1,408,256	15.2
\$35,000 to \$49,999	17,446,272	16.5	1,615,956	17.4
\$50,000 to \$74,999	20,540,604	19.5	1,569,024	16.9
\$75,000 to \$99,999	10,799,245	10.2	682,668	7.4
\$100,000 to \$149,999	8,147,826	7.7	423,626	4.6
\$150,000 to \$199,999	2,322,038	2.2	96,671	1.0
\$200,000 or more	2,502,675	2.4	95,721	1.0
Median household income (dollars)	\$ 41,994		\$ 33,676	

**Sources:** Table DP-3, Profile of Selected Economic Characteristics: 2000, Income in 1999, Data set: Census 2000 Summary File 3 (SF 3) - Sample Data; Table P151H, Household Income in 1999 (Hispanic or Latino Householder)[17] - Universe: Households with a householder who is Hispanic or Latino, 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

<sup>38</sup> Id. at p. 7.

“Nation” from the drop-down menu for geographic type, then selecting and adding Tables “P151H” and “P152H,” then selecting “Show Result.”

A report prepared by Lehman Brothers<sup>39</sup> questions the strength of the Hispanic population’s buying power. The report argues that the Hispanic buying power statistics are somewhat overstated because they do not take into consideration the vast amount of money that is sent by U.S. Hispanics to Latin America in the form of personal remittances. According to the World Bank, remittances to Latin America and the Caribbean are approximately \$20 billion per year and growing. The true figure could actually be much higher, since cash is often sent to Latin America via informal routes. The Lehman report cites a recent study by the Inter-American Development Bank that found that the typical Latin American working in the U.S. earns less than \$20,000 a year, but sends home about \$3,000 of that. Moreover, to the extent that the Hispanic community is competing with the African American community for the attention of investors and advertisers, the Lehman report claims that on a per capita basis, the growth of African American buying power has outpaced Hispanic buying power over the last six years; on an absolute basis, African American buying power remains 23% higher than Hispanic buying power.

## **Spanish Speaking Population Television Viewing Patterns**

An issue for policymakers relates to the television viewing patterns of the Spanish speaking population and the degree to which that population relies on English language programming as opposed to Spanish language programming to receive news and public affairs information. To the extent that the Spanish speaking population increasingly relies on English language programming for news and public affairs programming, there would be less of a rationale for providing special treatment of Spanish language programming. However, if that population continues to rely on Spanish language programming for a significant portion of their news and public affairs information, it might be reasonable to treat Spanish language programming as distinct from English language programming.

Nielsen data show that both Hispanic-American television households and Spanish dominant television households watch more television on average per week than all U.S. television households. In the most recent year for which data were available, 1999-2000, all television households watched on average 53.15 hours per week, Hispanic-American households watched on average 57.15 hours per week, and Spanish dominant households watched on average 55.34 hours per week.<sup>40</sup> Hispanic-American households watch significantly more television than all U.S. households

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<sup>39</sup> William M. Meyers, “Broadcasting Industry Update – Urban Competition: A Look at the Numbers,” Lehman Brothers Equity Research, June 11, 2003, at p. 3.

<sup>40</sup> Nielsen Media Research, Inc., [[http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/weekly\\_HH\\_viewing.html](http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/weekly_HH_viewing.html)], viewed on 10/10/03.

during prime-time and daytime hours, but less than all U.S. households during late night hours.<sup>41</sup>

In 2002, the Tomás Rivera Policy Institute performed a survey-based study (TRPI Study) “of the approximately 75 percent of Latino adult viewers who watch television in both Spanish and English” in order to determine “*among Latino viewers who have the language skills to view television in Spanish or English, what role does the language of television programming play in their viewing decision?*”<sup>42</sup> The sampling criteria used “shaped the respondent pool in such a way that it would include a large share of the Latino immigrant/migrant population ... and exclude many native-born Latinos who were less likely to watch any Spanish-language programming.”<sup>43</sup> Slightly more than 80% of the survey respondents were born abroad or in Puerto Rico. Of the remaining respondents who were born in the U.S., nearly two-thirds were the children of immigrant parents.<sup>44</sup>

The major findings of the 2002 TRPI Study are:

- Almost 90% of bilingual Latinos are able to receive Spanish language television stations clearly in their homes.<sup>45</sup>

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<sup>41</sup> Nielsen Media Research, Inc., [<http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/hispprimetime.html>], viewed on 10/10/03; [<http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/hisdaytime.html>], viewed on 10/10/03; [<http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/hisplatenight.html>], viewed on 10/10/03.

<sup>42</sup> Louis DeSipio, “Latino Viewing Choices: Bilingual Television Viewers and the Language Choices They Make,” (“TRPI Study”), The Tomás Rivera Policy Institute, Claremont, CA, May 2003, at pp. 1-3. The survey included 1,232 respondents divided roughly evenly among three cities – Los Angeles, Houston, and New York. It only included individuals who reported they watched at least one hour of Spanish language television and one hour of English language television within the last month. The “average” respondent was a 38 year old married woman. The respondents represented a linguistic mix of the Spanish dominant with weak English speaking skills and the bilingual English dominant. Nearly 80% of survey respondents conducted the survey in Spanish and the remaining 20% did so in English.

<sup>43</sup> TRPI Study at p. 2.

<sup>44</sup> A 1998 TRPI Latino Viewership Study found that bilingual viewers are overwhelmingly immigrants. Tomás Rivera Policy Institute, “Talking Back to Television: Latinos Discuss How Television Portrays Them and the Quality of Programming Options,” 1998. That study found that Latino television viewers watched English and Spanish language programming as follows:

Exclusively Spanish	11%
Primarily Spanish	13%
Both equally	50%
Primarily English	12%
Exclusively English	13%
Don't watch television	1%

<sup>45</sup> TRPI Study, Appendix Two, at p. 13.

- Although both cable and satellite subscribership is lower among Hispanic households than among all U.S. households – almost 24% of Hispanic households continued to rely entirely on over-the-air broadcast television – most receive Spanish language stations as part of cable service, as shown in Table 10.<sup>46</sup>

**Table 10: Transmission Mode by which Bilingual Latinos Receive Spanish Language Programming**

Cable	60.1%
Airwaves	24.1%
Satellite dish	7.8%
Cable and airwaves	5.3%
Satellite dish and airwaves	0.9%
Satellite dish and cable	0.7%
Satellite dish, cable, and airwaves	1.2%

Source: TRPI Study, Appendix Two, at p. 13.

- As shown in Table 10, in 2002 11% of respondents receive Spanish language programming by satellite. Half of those with satellite television reported that they used the technology to watch programs from their country of origin or ancestry in Latin America, though this varied widely by country of origin. Approximately 60% of Mexican immigrants and Mexican Americans viewed satellite broadcasts of programming from Mexico. No Dominicans or Puerto Ricans with satellite dishes used the technology to view home country programming.<sup>47</sup> The level of satellite penetration probably has increased significantly in the past year, however, as DishTV (and to a lesser extent DirecTV) have targeted the Spanish speaking population with packages of 20 or more Spanish language channels, as shown in Table 14 below.
- Secondary Audio Programming (SAP) is a technology that allows viewers to substitute Spanish for English on programs that are broadcast in SAP format. Most televisions and VCRs manufactured since 1995 have this technology, though owners may not be aware of it. Approximately 42% of Latino bilingual viewers report that

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<sup>46</sup> To increase cable penetration among Hispanic households, NBC, which owns the cable network Mun2, has created a marketing campaign, targeting Hispanic households, called Mas (“More” in English), promoting the benefits of cable, including movies, high-speed Internet, and programming variety. See Allison Romano, “NBC Touts Cable to Hispanics,” *Broadcasting & Cable*, September 8, 2003, at p. 30.

<sup>47</sup> Id. at p. 4.

they have SAP technologies on televisions in their homes. One out of six respondents report utilizing SAP technologies often.<sup>48</sup>

- Nearly half of the households included adult residents who could speak no English; approximately 12% of households included adult members who could speak no Spanish. The languages routinely spoken in these households reflect these various linguistic abilities. Approximately 11% spoke to other adult household members in English. English was more commonly used when speaking to children in the household; nearly 23% routinely spoke to children in English. Given the high share of immigrants among the sample, Spanish was a somewhat more common language for communication in respondents' households than English – 31% of conversations with adults and 34% of conversations with children. The remainder reported speaking bilingually in the household.<sup>49</sup>
- *Television viewing in Latino households is overwhelmingly a family affair and selecting programming is often not an individual preference.* Two-thirds of respondents reported that they regularly watched television with other adults in the household, with other children, or with both.<sup>50</sup>
- Respondents reported that half the other adults in their households watched Spanish language and English language programming equally. Of the remainder, adult family members were approximately twice as likely to prefer Spanish language programming to English language programming. On the other hand, two-thirds of children in the household preferred English language programming; only 4% preferred Spanish language programming.<sup>51</sup>
- As shown in Table 11, the majority of bilingual Latino viewers (57%) preferred watching the majority of news programming in Spanish, 27% preferred watching a mix of Spanish and English language news programming, and 16% preferred watching English language news programming. By contrast, bilingual viewers were much more likely to watch English language movies and sports events. Bilingual Latinos overwhelmingly watched Spanish language programming for formats that have linguistic or cultural content specific to the Hispanic community – variety and talk programs and “telenovelas” (soap operas).

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<sup>48</sup> Id. at p. 4.

<sup>49</sup> Id. at p. 5.

<sup>50</sup> Id. at p. 6.

<sup>51</sup> Id. at p. 6.

**Table 11: Languages Preferred/Used for Major Types of Television Programming, Bilingual Latino Viewers**

Programming Type	Spanish Language %	Mix of Spanish and English %	English Language %	Survey respondents who watch of 1,232 respondents
Soap operas (“telenovelas”)	88.6	8.2	3.3	699
Variety or talk programs	63.1	28.5	8.4	747
News	57.0	26.7	16.3	1,098
Situation comedies	39.4	35.7	24.9	720
Sports	36.1	33.7	30.2	579
Movies	14.7	46.1	39.2	737

**Source:** TRPI Study, Table Two, “Languages Used for Major Types of Television Programming, Bilingual Latino Viewers,” at p. 7, and Appendix Two, questions 11, 16, 18, 20, 22, and 24, at pp. 14-15.

- As shown in Table 12, a majority (57%) of bilingual Latinos do most or all of their television viewing on Spanish language networks.

**Table 12: Frequency of Viewership of Spanish Language Networks Among Bilingual Latino Viewers**

All of the time	33%
Most of the time	24%
About half the time	14%
Some of the time	25%
Not at all	4%

**Source:** TRPI Study, Table Three, Frequency of Viewership of Spanish-language Networks Among Bilingual Latino Viewers, at p. 8, and Appendix Two, question 25, at p. 15.

## The Availability of Spanish Language Programming

Data on the Spanish language programming available to the Spanish speaking population, including the choices for local news and public affairs programming, will help policy makers evaluate how well the goals of localism and diversity of voices are being met.

The growth in the size and buying power – and favorable youthful and urban demographics – of the Spanish language population has attracted resources to the Spanish language radio and television industry.

As shown in Table 13, from 1992 to 2002, the number of broadcast radio stations with primarily Spanish language programming formats grew 91%, from 360

to 687;<sup>52</sup> during the same period, the total number of radio stations in the U.S. increased by only 19%, from 11,117 to 13,193. Not surprisingly, the stations offering Spanish language programming are not distributed evenly across the nation, but rather are concentrated in the geographic areas with large Spanish-speaking populations: Texas, California, Puerto Rico, Florida, Arizona, and New Mexico.<sup>53</sup>

**Table 13: Radio Stations in the U.S. with Primarily Spanish Language Programming Formats, 1992-2002**

Year	Commercial	Non-Commercial	Total
2002	603	84	687
2001	574	85	659
1999	536	64	600
1998	493	58	551
1997	474	42	516
1996	463	39	502
1995	427	36	463
1994	401	32	433
1993	361	30	391
1992	331	29	360

**Source:** *M Street Radio Directory*, Eleventh Edition, 2002-2003, "Format Statistics: Primary Format," at p. 18.

Many of these Spanish language radio stations are owned by corporations with large radio groups and/or affiliated with a Spanish language network. Since there are many different Spanish language formats,<sup>54</sup> a network does not provide a single feed

<sup>52</sup> 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. Possible sources of the apparent discrepancies include the definition of "primary format," the treatment of stations that generate no advertising revenues, the treatment of multiple signals generated from the same location, and the fact that some of these stations are extremely marginal and may discontinue or re-start operations. Whatever the exact number, the clear market trend is toward more Spanish language formatted radio stations.

<sup>53</sup> Of the 577 Spanish language radio stations listed in *Broadcasting & Cable Yearbook 2002-2003*, at pp. D-693-D-694, 134 are located in Texas, 125 in California, 65 in Puerto Rico, 43 in Florida, 23 in Arizona, and 22 in New Mexico.

<sup>54</sup> *M Street Radio Directory*, Eleventh Addition, 2002-2003, at p. 13, identifies 22 different Spanish language radio formats.

to all affiliates, but rather will provide some common programming (e.g., news) to all affiliates and format-specific programming to sub-groups of affiliates.

Univision (formerly Hispanic Broadcasting Corporation) has the largest radio group, with 62 stations in 15 of the 25 largest Hispanic markets, and also operates one of the largest Spanish language radio broadcast networks in the U.S. in terms of audience delivery,<sup>55</sup> and has announced its intention to acquire or develop additional Hispanic-targeted radio stations in the leading Hispanic markets.<sup>56</sup> Spanish Broadcasting System is the number two operator of Spanish language radio in the U.S., owning and/or operating 27 radio stations in 7 of the top 10 Hispanic markets in the U.S. and Puerto Rico.<sup>57</sup>

Entravision Communications Corporation owns and/or operates 58 radio stations in the top 50 Hispanic markets (26 stations in the top 10 markets; 45 stations in the top 16 markets), and with its network affiliates has coverage of 56% of the U.S. Hispanic population.<sup>58</sup> As part of the Department of Justice Final Judgment in the Univision-HBC merger, Univision is required to exchange all of its voting equity interest in Entravision 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.<sup>59</sup> (However, Entravision continues to own 41 television stations that have affiliate contracts running through 2021 with either the Univision or the TeleFutura Television Networks owned by Univision.<sup>60</sup>) Radio Unica Communications Corp. owns or operates 15 AM radio stations that reach 62% of the Hispanic community; its network, which also includes more than 30 affiliate stations, reaches about 75% of the Hispanic population.<sup>61</sup> It broadcasts 24 hours a day, 7 days a week.

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<sup>55</sup> Hispanic Broadcasting Corporation Form 10-K filed with the Securities and Exchange Commission on 3/31/03, at p. 3.

<sup>56</sup> *Id.* at p. 3.

<sup>57</sup> Spanish Broadcasting System, Inc. Form 10-K filed with the Securities and Exchange Commission on 3/31/03, at p. 1.

<sup>58</sup> Entravision Communications Corporation Form 10-K filed with the Securities and Exchange Commission on 2/14/03, at pp. 10-11.

<sup>59</sup> *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.

<sup>60</sup> Entravision Communications Corporation Form 10-K filed with the Securities and Exchange Commission on 2/14/03, at p. 6.

<sup>61</sup> Radio Unica Communications Corp. Form 10-K filed with the Securities and Exchange Commission on 3/28/03, at p. 1.



Today there are approximately 135 full power and low power<sup>62</sup> broadcast television stations in the U.S. offering primarily Spanish language programming.<sup>63</sup> These stations are not distributed evenly across the nation, but rather are concentrated in the geographic areas with large Spanish-speaking populations: California, Texas, Florida, New York, Arizona, New Mexico, and Puerto Rico.<sup>64</sup> Because the Spanish

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<sup>62</sup> Low power television was established by the FCC in 1982 to provide opportunities for television service for locally-created and community-oriented programming in both rural locations and individual communities within larger urban areas. Low power stations must be run within limits on effective radiated power (3 kilowatts for VHF channels and 150 kilowatts for UHF channels) and subject to interference protection standards. The distance at which a station can be viewed depends on a variety of factors: antenna height, transmitter power, transmitting antenna, and the nature of the signal environment (rural or urban, hilly or flat terrain). Viewers with outdoor receiving antennas have received some stations at distances of more than 20 miles, but typically the viewing range is much smaller than that. See Low Power Television (LPTV) Fact Sheet, Federal Communications Commission, November 2001, [<http://www.fcc.gov/mb/video/files/LPTVFactSheet>], viewed on 10/10/03.

<sup>63</sup> 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 appear to be multiple listings for broadcasts originating at a single location (for example, Caballero Television Texas, based in Carrollton, Texas) and several cable television channels.

<sup>64</sup> According to Media Market Resources, *First quarter 2003 TV Datatrak* (at pp. 135 ff, Commercial Format Requirements), the 122 stations with Spanish language programming that accept commercial advertising are distributed across markets as follows:

<u>Market</u>	<u>Total Stations</u>	<u>Spanish Stations</u>	<u>Market</u>	<u>Total Stations</u>	<u>Spanish Stations</u>
Abilene	5	1	Albuquerque	11	2
Amarillo	7	2	Atlanta	10	1
Austin	8	2	Bakersfield	9	2
Boston	15	3	Chicago	14	3
Chico-Redding	6	1	Cleveland	15	1
Colorado Sprgs	7	1	Corpus Christi	12	2
Dallas-FW	14	3	Denver	13	2
El Paso	7	3	Fresno-Visalia	18	4
Harlingen	6	2	Hartford-NH	12	3
Houston	15	5	Laredo	3	1
Las Vegas	10	3	Little Rock	8	1
Los Angeles	24	5	Lubbock	10	2
Miami-Ft. L.	11	4	Milwaukee	9	1

(continued...)

speaking population tends to be concentrated in a relatively small number of geographic markets – and often within specific neighborhoods within those markets – low power television, despite its limited geographic reach, has been able to serve this niche market.

Many of these local stations, whether full power or low power, get significant portions of their programming from Spanish language broadcast networks. Univision Network is the leading Spanish language broadcast television network in the U.S., reaching 97% of U.S. Hispanic households with 24 hour a day, 7 day a week programming.<sup>65</sup> It is the most watched television network (English or Spanish language) among Hispanic households and had a higher rating among Hispanic households in prime time than its next four competitors combined in the 2001-2002 season.<sup>66</sup> The Univision Network consists of 16 full power owned and operated stations and 7 low power owned and operated stations,<sup>67</sup> plus additional non-owned affiliates.<sup>68</sup>

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<sup>64</sup> (...continued)

Monterey-Sal.	4	1	New York	16	3
Odessa-Midl.	7	2	Orlando-Dayt.	18	4
Palm Springs	6	1	Philadelphia	17	3
Phoenix	15	3	Portland	10	1
Reno	9	3	Sacramento	14	5
Salt Lake City	13	3	San Antonio	13	5
San Diego	12	5	San Francisco	19	4
Santa Barbara	9	3	Springfield-Hol.	3	1
Tampa-St. Pete	14	3	Tucson	11	4
Victoria, TX	6	2	Waco	6	1
Washington DC	13	3	Yakima	7	1
Yuma-El Centra	4	1			

<sup>65</sup> Univision Communications Inc., Form 10-K, received at SEC on 3/24/03, at p. 5 (“Univision 10-K). According to the 10-K, the network’s full power owned and operated stations and full power independently-owned affiliated stations together reach approximately 7.6 million, or approximately 78%, of Hispanic households; the network’s low power owned and operated stations and low power independently-owned affiliated stations (including translators) together reach approximately 0.9 million, or approximately 9% of Hispanic households; and the cable affiliates and direct broadcast systems (used in locations with Spanish language populations that are too small to support even a low power television station) reach approximately 1 million, or approximately 10%, of Hispanic households.

<sup>66</sup> *Id.* at p. 5. According to its largest competitor (August 21, 2003 Telemundo *Ex Parte* to the FCC, at p. 1), the Univision Network has a 70-plus percent Hispanic audience share.

<sup>67</sup> Univision Communications Inc., Form 10-K, received at SEC on 3/24/03, at p. 6.

<sup>68</sup> According to an August 21, 2003 *ex parte* filing submitted by Telemundo Communications Group in Federal Communications Commission MB Docket No. 02-235, *Re: Applications for Transfer of Control of Hispanic Broadcasting Corp., and Certain* (continued...)

Univision also owns the third largest Spanish language broadcast television network, TeleFutura Network, a 24-hour general interest broadcast network that reaches 75% of U.S. Hispanic households through 16 full power owned and operated stations, 11 low power owned and operated stations, 2 full power independently-owned affiliate stations, and 25 low power affiliate stations.<sup>69</sup> The programming on the TeleFutura Network is specifically chosen not to mimic the programming on its sister Univision Network.

Telemundo, which is owned by GE/NBC, is the second largest Spanish language network, with a full program schedule. It reaches approximately 88% of U.S. Hispanic households<sup>70</sup> through 13 owned and operated full power television stations, 7 independently-owned full power affiliates, 9 owned and operated low power television stations, and 25 independently-owned low power television stations – 44 affiliates in all.<sup>71</sup>

In addition, there are several small Spanish language broadcast networks, including Azteca America, which has seven owned and operated stations that reach 35-38% of U.S. Hispanic households.<sup>72</sup> The other broadcast networks tend to offer niche music or religious programming to a small number of affiliate stations.

At the same time, in many locations Spanish language 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 are available on a pay per view basis. Table 14 presents a list of networks available from one or both of the two major satellite systems – DirecTV and Dish TV. Many of the

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<sup>68</sup> (...continued)

*Subsidiaries, Licensees of KGB(AM), Harlingen, Texas et. al.* (“August 21, 2003 Telemundo *Ex Parte* to the FCC”), at Attachment 1, the Univision Network affiliates consist of 15 full power television stations owned and operated by Univision, 17 full power television stations owned by Entravision Communications Corporation (in which Univision had a 30% equity and 7% voting interest in 2002), 1 independently-owned full power television station, 6 low power television stations owned and operated by Univision, 11 low power television stations owned by Entravision, and 8 independently-owned low power television stations – 58 affiliates in all.

<sup>69</sup> Univision 10-K, at p. 7. According to the August 21, 2003 Telemundo *Ex Parte* to the FCC, at Attachment 1, the TeleFutura Network affiliates consist of 18 full power television stations owned and operated by Univision, 1 full power television station owned by Entravision Communications Corporation, 9 low power television stations owned and operated by Univision, 13 low power television stations owned by Entravision, and 14 independently-owned low power television stations – 55 affiliates in all.

<sup>70</sup> Frank Morag, “Spanish-language programming on the rise in the United States,” *The San Diego Union-Tribune*, October 20, 2002, at p. A11.

<sup>71</sup> August 21, 2003 Telemundo *Ex Parte* to the FCC, at Attachment 1.

<sup>72</sup> According to Victor B. Miller IV, “Univision-Hispanic Merger: Que Pasa?,” Bear Stearns Equity Research, July 17, 2003, Azteca America claims to reach 63% of all U.S. Hispanic households, but Nielsen estimates suggest Azteca America reaches only approximately 35-38%.

networks that provide primarily entertainment programming also offer some news and sports (primarily soccer) programming.

**Table 14: Spanish Language Channels Available on Either DirecTV or Dish TV**

Channel	Primary Type of Programming	On DirecTV	On DishTV
Galavision (Univision)	Entertainment	X	X
Mun2 (GE/NBC)	Entertainment	X	X
TV Azteca	Entertainment		X
TeleFutura Este	Entertainment		X
TeleFutura Oeste	Entertainment		X
Telemundo Este	Entertainment	X	X
Telemundo Oeste	Entertainment	X	X
Univision Este	Entertainment	X	X
Univision Oeste	Entertainment	X	X
Televisión Española	Entertainment, News directly from Spain	X	X
Television Chile	Entertainment, News directly from Chile	X	X
CASA CLUB	Cooking, Interior Design	X	
Utilísima	“How to” Shows	X	
CNN en Español	News	X	X
SUR	News	X	X
Telemundo Internacional	News	X	
Telefe Internacional	Family Entertainment from Latin America	X	
Cartoon Network	Family Entertainment	X	
Toon Disney	Family Entertainment	X	X
Cine Latino	Movies	X	X
De Película	Movies		X
De Película Clásico	Movies		X
HBO Latino	Movies	X	X
Fox Sports en Español	Sports	X	X
Gol TV	Sports		X
Discovery en Español	Educational	X	X
EWTN	Religious	X	
Maria+Visión	Inspirational	X	
HTV	Music		X
MTV Español	Music	X	X
PUMA TV	Music	X	
Telehit	Music		X
Playboy en Español	Adult		X
CD-Fiesta Mexicana	Audio Digital		X
CD-Latino Pop	Audio Digital		X
CD-Latino Styles	Audio Digital		X
CD-Miami Mix	Audio Digital		X
CD-Tejano	Audio Digital		X
DC-Viva Mariachi	Audio Digital		X
MC-Canciones de Amor	Audio Digital	X	
MC: Latin Love Songs	Audio Digital	X	
MC: Mexicana	Audio Digital	X	
MC: Rock ‘en Español	Audio Digital	X	
MC: Salsa y Merengue	Audio Digital	X	
MC: Tejano	Audio Digital	X	

**Sources:** [<http://www.directv.com/DTVAPP/see/ParaTodosChannels.jsp>], [[http://www.dishnetwork.com/content/programming/packages/dish\\_latino/index.asp?viewby=1&pa](http://www.dishnetwork.com/content/programming/packages/dish_latino/index.asp?viewby=1&pa)]

ckid=10092&sortby=1 and [www.dishnetwork.com/content/programming/movies/hbo/index.shtml](http://www.dishnetwork.com/content/programming/movies/hbo/index.shtml)], all viewed 10/10/03.

Cable systems also are expanding their Spanish language programming offerings, both in recognition of the growing Hispanic population and in competitive response to the satellite system offerings. Charter rolled out a new Spanish language program package this spring.<sup>73</sup> Comcast has announced that it is now offering “Cable Latino,” a new package featuring Spanish-language news, sports, and educational channels.<sup>74</sup> Comcast is offering this service to its Digital Cable customers for an additional \$9.95 per month; other subscribers can access the stations for \$24.95. By contrast, the price for the Spanish language program packages of the satellite systems tends to be \$21.95. These prices are likely to change as cable and satellite systems begin competing head-to-head for Spanish language customers. However, relative to satellite systems, cable systems face capacity constraints that tend to limit the number of Spanish language channels they can offer.

Many of the cable networks included in both the satellite and cable system packages serve portions of Latin America, Spain, and/or Portugal as well as the U.S. Much of the programming on both the Spanish language broadcast networks and the Spanish language cable networks is created outside the U.S. Many of these networks have ownership ties and/or long-term exclusive supply contracts with their Latin American programming sources.

For example, the Cisneros Group – one of the largest privately held broadcast, media, and telecommunications organizations in the world, serving 550 million Spanish and Portuguese speaking consumers – is the largest shareholder of Univision Communications, Inc.,<sup>75</sup> which owns the Univision and TeleFutura broadcast networks and the Galavision cable network.<sup>76</sup> Venevision, Venezuela’s leading Spanish language programmer, is a wholly owned subsidiary of Cisneros.<sup>77</sup> Univision has a long-term exclusive programming arrangement with Venevision that

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<sup>73</sup> Christina Hoag, “Luring viewers en español; foreign channels fortify TV lineup,” *The Miami Herald*, May 7, 2003, at p. C1.

<sup>74</sup> “Comcast offers more channels for Spanish-speaking subscribers,” *The Associated Press State & Local Wire, Business News*, September 3, 2003. The stations now available in the Comcast package include: Cine Latino, a Spanish movie channel; CNN en Español; Discovery en Español; Fox Sports en Español; TVE international, offering documentaries, movies, and news; HTV Musica; Toon Disney en Español; MTV en Español; Utilísima, a Hispanic women’s network; VH Uno, offering Spanish music videos; and DMX Music, providing digital music.

<sup>75</sup> See <http://www.cisneros.com/content/index.asp>] and [<http://www.cisneros.com/company/univision.asp>], both viewed on 10/10/03.

<sup>76</sup> According to the Univision10-K, Galavision is the leading U.S. Spanish-language general entertainment basic cable television network, reaching 5.7 million Hispanic cable and direct broadcast system subscribers; Nielsen Media Research estimates that the Galavision Network reaches 90% of all Hispanic households. The network offers more than 55 hours of live news, sports, variety, and entertainment programming each week.

<sup>77</sup> See [<http://www.cisneros.com/company/univision.asp>], viewed on 10/10/03.

runs through 2017.<sup>78</sup> Similarly, Univision has had longstanding economic ties with Grupo Televisa, the dominant Mexican television group and the largest producer of Spanish language programming in the world; the two companies have a long-term exclusive programming arrangement that also runs through 2017<sup>79</sup> and Grupo Televisa has a substantial ownership interest in Univision.<sup>80</sup> According to Univision's most recent 10-K report,<sup>81</sup>

Televisa and Venevision programming represented approximately 32% and 19%, respectively, of Univision Network's non-repeat broadcast hours in 2002. Televisa and Venevision programming represented approximately 20% and 2%, respectively, of TeleFutura's non-repeat broadcast hours in 2002.

According to Telemundo CEO James McNamara, in just three years Telemundo has gone from acquiring all of its content from outside sources (mostly from outside the U.S.) to producing 70% of its own programming,<sup>82</sup> primarily in its Miami studios, with content intended specifically for the U.S. Hispanic market. The Azteca America network is owned by, and gets the bulk of its programming from TV Azteca, the second largest Mexican television network.<sup>83</sup> Smaller Spanish language networks get virtually all of their programming from Latin American sources.

Despite the rapid growth in the number of Spanish language broadcast and cable networks, these ventures continue to be risky and there have been a number of market failures. Listings of cable networks invariably include some that are no longer in operation. For example, the website for Gran Canal Latino states that it "has temporarily halted its satellite transmission."<sup>84</sup> The Weather Channel had to discontinue plans for a U.S.-based Spanish language service because of concerns by multi-system cable operators ("MSOs") that the audience would be too small (a "hyper-niche").<sup>85</sup> But sometimes the assets of one failed venture are quickly put to use in another venture. Firestone Communications earlier this year acquired the assets of defunct Spanish language broadcaster HITN and, in two months, overhauled it as the Sorpresa! Network.<sup>86</sup>

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<sup>78</sup> Univision 10-K, at p. 11.

<sup>79</sup> *Id.* at p. 11.

<sup>80</sup> Grupo Televisa S.A. Form 20-F filed with the Securities and Exchange Commission on 6/30/2003, at p. 32.

<sup>81</sup> *Id.* at p. 11.

<sup>82</sup> *Communications Daily*, July 28, 2003, at p. 11.

<sup>83</sup> See [<http://www.hoovers.com/free/co/factsheet.xhtml?COID=53615>], viewed on 10/10/03.

<sup>84</sup> [<http://www.grancanallatino.com>], viewed on 10/10/03.

<sup>85</sup> Allison Romano, "Special Report – Mining the Market: Cable discovers the varied Latin audience and seeks new ways to serve it," *Broadcasting & Cable*, September 8, 2003, at p. 26.

<sup>86</sup> Allison Romano, "A Tour of the New Hispanic Cable Networks," *Broadcasting & Cable*, September 8, 2003, at p. 26.

Just as is the case for English language cable channels,<sup>87</sup> successful launch of a new cable network depends on that network being carried by major MSOs and/or satellite systems. These media giants 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.<sup>88</sup>

No systematic data are available on the amount of news and public affairs programming available over Spanish language television stations in the U.S. Given that much of the programming originates overseas, and that many Spanish language stations are low power rather than full power, it might be useful to obtain information on the amount of each of the following categories of news and public affairs programming targeted for the Spanish speaking population in the U.S.:

- local news and public affairs programming, and the extent to which it varies between full power and low power stations;
- national and international news and public affairs programming originating in the U.S.;
- news and public affairs programming originating overseas that has relevance to U.S. domestic and international affairs;<sup>89</sup> and
- news and public affairs programming originating overseas that does not have relevance to U.S. domestic and international affairs.

Arbitron characterizes the Hispanic population as tending, relative to the overall population, to rely more heavily on radio than on television or newspapers<sup>90</sup> – on

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<sup>87</sup> See CRS Report RL32026, *Market Dynamics and Public Policy Issues in the Video Programming Industry*, July 28, 2003, at pp. 11-12.

<sup>88</sup> *Id.* at pp. 11-12.

<sup>89</sup> According to Tom O'Brien, general manager of NBC-owned KXAS-TV, in Dallas, and its Telemundo cousin, KXTX-TV, "What our predominantly Spanish-speaking audience wants to see differs from what our predominantly English-speaking audience wants. We focus more on news from Mexico, which is seen as more of a local story on a Spanish-language station here." See Dan Trigiboff, "Bilingual Duopolies Redefine Big NBC Stations," *Broadcasting & Cable*, September 8, 2003, at p. 34.

<sup>90</sup> Arbitron, "Power of Hispanic Consumers: A Compelling Argument for Reaching Out to Hispanic Consumers," [http://www.arbitron.com/downloads/hisp\_consumer\_study\_2003], viewed on 10/10/03,

(continued...)

average, Hispanics listen to 19 hours and 15 minutes of radio per week, Hispanics who listen to Spanish language radio listen to 21 hours and 45 minutes per week, while non-Hispanics listen to radio only 16 hours and 30 minutes per week. It therefore might be useful to obtain similar data on news and public affairs programming aired by Spanish language radio stations as well.

## **The Availability of Advertising Revenues to Support Spanish Language Programming in the U.S.**

Policy makers often must make tradeoffs among conflicting policy goals. For example, industry consolidation may concurrently increase efficiency but decrease the diversity of voices. Data on how efficiently a market has been responding to market changes (for example, how quickly the advertising market has been responding to demographic and income changes in the Spanish speaking community) provide important information for policy makers trying to make decisions about whether potential increased efficiencies from consolidation outweigh potential decreases in diversity.

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.<sup>91</sup> In 2002, in the Miami-Forth Lauderdale market, Univision's owned and operated television station, WLTV, was the number one station, by ratings, in the market sign-on to sign-off and dominated the local news race in all day parts except late news; yet according to BIA Financial Network, WLTV was a distant third in revenues.<sup>92</sup>

But these rankings do not by themselves demonstrate that the advertising market has not been responsive to the Spanish speaking population. Advertisers do not value each listener or viewer equally. Advertisers seek higher income audiences with more buying power. They also seek young and urban adults, who tend to be more responsive to advertising messages than are older and more rural adults. Also, they often seek audiences of at least a threshold size, to take advantage of scale economies. Now, post 2000 Census, with detailed data available about the demographics, buying power, and purchasing patterns of the Hispanic population, how do advertisers seem to be weighing the pluses of a Hispanic population that has rapidly growing buying power and relatively young demographics, but which still has per household income that is only 80% of the national average and per household spending that is only 90% of the national average? To what extent do advertisers recognize that although income increases with English language proficiency, many

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<sup>90</sup> (...continued)  
unpaginated.

<sup>91</sup> 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.

<sup>92</sup> "Market Profile: Miami-Ft. Lauderdale," *MediaWeek*, April 1, 2002, at p. 18.



Hispanics with such proficiency continue to watch Spanish language television programming to accommodate family members who are less proficient in English?

If Spanish language television stations attract 5% of total audience but only 2% of total advertising revenues – a 60% “shortfall” – this discrepancy cannot be explained entirely by the 20% differential between median Hispanic household income and the median income of all U.S. households shown in Table 9. Other available data may shed additional light. The data from the Pew/Kaiser Survey presented in Table 3 show that at least 65% of Spanish dominant households have income of less than \$30,000 and Spanish dominant Hispanic households are more likely to watch Spanish language programming than English dominant or bilingual Hispanic households. These suggest that the differential between the median income of households that view Spanish language programming and the median income of all households significantly exceeds 20%. Since viewer income or buying power is highly valued by advertisers, this could explain a large portion of the 60% differential between Spanish language programming audience share and Spanish language programming advertising revenue share reportedly asserted by Univision.

There is evidence that the market is responding to demographic changes and reducing the gap between the audience share and the advertising share of Spanish language programming. As shown in Table 15, in 2002, advertising revenues grew much faster for Spanish language television than for any other media category. Advertiser spending on the three big Spanish language broadcast networks in 2002 was \$2.4 billion, a 25% increase over 2001.<sup>93</sup> That trend has continued in 2003.<sup>94</sup> A recent study by PriceWaterhouseCoopers predicts that the growth in advertiser spending in broadcast and cable television, and the resultant higher advertising rates over the next four years, will largely be the result of increases in the Hispanic market; with advertising agencies now targeting both Spanish and English speaking Hispanic viewers, it is estimated that revenues from advertising directed at the Hispanic population will grow more than 50% by 2007.<sup>95</sup>

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<sup>93</sup> Allison Romano, “Finally. Some New Advertisers,” *Broadcasting & Cable*, September 8, 2003, at p. 36. By contrast, the seven English language broadcast networks had advertising revenues of \$13 billion in 2002.

<sup>94</sup> See Steve McClellan, “Hot Market + Hot Census = Hot Hispanic Upfront,” *Broadcasting & Cable*, July 14, 2003, at p. 18, which presents estimates that total advertiser spending for Hispanic television will increase 15% in 2003, with price increases of approximately 10-12%, and the remainder of the revenue increase attributable to increases in the total quantity of advertising.

<sup>95</sup> “Hispanic Audiences Called Main Cause of TV Advertising Growth,” *Communications Daily*, June 25, 2003, at pp. 6-7.

**Table 15: Change in Advertising spending, first three quarters, 2001 vs. 2002 (billions of dollars)**

Medium	% change	Medium	% change
<b>All Media</b>	<b>2.2%</b>		
Local Newspapers	7.57%	Network Television	7.07%
Spot Television	14.7%	Consumer Magazines	-1.41%
Cable Television	-1.0%	Business Magazines	-17.4%
Local Radio	9.5%	Internet	-18.2%
Syndication	-11.8%	National Newspapers	-3.3%
Outdoor	-3.8%	National Spot Radio	6.1%
<b>Univision/Telemundo</b>	<b>25.5%</b>	Sunday Magazines	10.0%
Network Radio	14.3%		

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

According to *Advertising Age*<sup>96</sup> and *Broadcasting & Cable*,<sup>97</sup> 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. General Motors recently introduced a national Spanish language advertising campaign that will double the \$51 million it spent last year in the Hispanic market.<sup>98</sup> Procter & Gamble increased its advertising on Hispanic networks by more than one-third in 2002 and Sears by more than 15%;<sup>99</sup> pharmaceutical company advertising on Hispanic networks has almost doubled in the past two years and motion picture advertising on Hispanic networks has increased by 50%.<sup>100</sup> Table 16 shows the 15 companies that had advertising expenditures on Hispanic networks in 2002 of \$40 million or more.

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<sup>96</sup> 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.

<sup>97</sup> Allison Romano, "Finally, Some New Advertisers," *Broadcasting & Cable*, September 8, 2003, at p. 36.

<sup>98</sup> Jean Halliday, "GM Breaks New Campaign to Court Hispanics: North American President Speaks Spanish in Latest Ads," *AdAge.com OnLine Edition*, April 15, 2003. Congressional clients may obtain this article, which was published online, from CRS.

<sup>99</sup> Allison Romano, "Finally, Some New Advertisers," *Broadcasting & Cable*, September 8, 2003, at p. 36.

<sup>100</sup> *Id.* at p. 36.

**Table 16: Top Advertisers on Hispanic Networks, 2002**

Company	Spending (\$millions)
Procter & Gamble	\$134.1
Sears Roebuck	\$105.0
U.S. Government	\$ 82.5
Lexicon Marketing	\$ 71.7
World Vision	\$ 67.6
General Motors	\$ 65.1
AT&T	\$ 60.2
Pepsico	\$ 59.0
Univision Communications	\$ 51.0
McDonald's	\$ 48.8
Johnson & Johnson	\$ 45.1
Toyota	\$ 44.0
Coca-Cola	\$ 40.8
Vivendi Universal	\$ 40.4
WorldCom	\$ 39.9

**Source:** Nielsen Monitor-Plus data reproduced in *Broadcasting & Cable*, September 8, 2003, at p. 36.

Both Arbitron, for radio, and Nielsen, for television, have performed detailed analyses and constructed presentations for advertisers that show the favorable demographics and buying power of the Hispanic population in the U.S.<sup>101</sup>

## Public Policy Issues

### **To what extent does the Spanish speaking population have unique needs that are not met by English language programming?**

The detailed demographic information presented in this report shows that the Hispanic community is not linguistically homogeneous. As shown in Tables 1 and 2, most of the Hispanic population speaks English at least “well.” The Hispanic population tends to be younger than the overall population, and Hispanic children – whether born in the U.S. or overseas – are more likely than Hispanic adults to understand and speak English. As the children in households go to school, discussions in the home become more bilingual, and less Spanish-dominant. At the same time, the data in Tables 1 and 2 show that more than a quarter of that

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<sup>101</sup> See, for example, “Power of Hispanic Consumers: A Compelling Argument for Reaching Out to Hispanic Consumers,” [[http://www.arbitron.com/downloads/hisp\\_consumer\\_study\\_2003](http://www.arbitron.com/downloads/hisp_consumer_study_2003)], viewed on 10/10/03, and [<http://www.nielsenmedia.com/ethnicmeasure/hispanic-american/indexHisp>], viewed on 10/10/03.

population – more than 7 million people 5 years of age or older – speak English “not well” or “not at all.” The Census Bureau has identified more than 2.5 million *linguistically isolated Spanish speaking households*, in which all members 14 years old and over have at least some difficulty with English. As shown in Table 4, while bilingual and English-dominant Latinos tend not to have communications problems when seeking health care, more than 40% of foreign born Latinos and almost 50% of Spanish-dominant Latinos reported having difficulties during the past year communicating with health care providers and getting health care.

As a result of this wide variation in English language skills among the Hispanic population, some Hispanic households frequently view English language television and listen to English language radio, and some do not. As shown in Table 11, most Hispanics watch English language or a mix of Spanish and English language entertainment programming (though they overwhelmingly watch Spanish language “telenovelas” and talk shows rather than English language soap operas and talk shows). In general, then, English language entertainment programming often provides a viable alternative to Spanish language entertainment programming. Most of the Hispanic population, however, prefers to watch Spanish language news programming, rather than English language or a mix of Spanish and English language news programming.<sup>102</sup> This is, in part, due to television viewing in Latino households tending to be a family affair, and bilingual family members typically accommodating the needs of their non-English speaking relatives. For these families, English language news programming may not provide an alternative to Spanish language programming.

Some English language television stations in markets with large Spanish speaking populations offer Secondary Audio Programming, which allows viewers to push a few buttons on their remote controls to hear the local news in Spanish; nationally, the major networks have been offering SAP for years. But, as shown in Tables 11 and 12, most bilingual Spanish speaking viewers continue to watch Spanish language networks all or most of the time, especially for news programming. For example, although KRIV FOX 26 in Houston offers SAP for its local programming, it remains a distant second to Univision among local Hispanic viewers.<sup>103</sup> Viewer choice is affected not just by the language of the programming offered, but also by the selection of news topics covered.

Although the projected increase in the U.S. Hispanic population from 35.3 million in 2000 to 60.4 million in 2020 (see Table 8) will be driven largely by a substantial increase in the number of second generation Hispanics, the vast majority of whom will be proficient in English, the number of first generation Hispanics is

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<sup>102</sup> In June 2002, *The Houston Chronicle* reported that the number one network for nightly news among adults ages 18 - 34 in New York, Los Angeles, and Chicago was Univision, not ABC, CBS, NBC, FOX, or CNN. See David Kaplan, “A niche no more: Spanish-language networks are becoming media titans,” *The Houston Chronicle*, June 23, 2002, at p. A1.

<sup>103</sup> David Kaplan, “A niche no more: Spanish-language networks are becoming media titans,” *The Houston Chronicle*, June 23, 2002, at p. A1.

projected to grow by 45% to 20.6 million.<sup>104</sup> Almost three-quarters (72%) of foreign-born adult Latinos are Spanish dominant.<sup>105</sup> Thus, going forward, although it is likely that the proportion of U.S. Hispanics dependent on Spanish language news programming will fall, there will continue to be a large, and probably growing, number of people in the U.S. dependent on Spanish language programming for their news.

### **To what extent is consolidation needed to attract national advertiser support of Spanish language programming?**

Several Spanish language media companies, most notably Univision, have argued that they currently are at a disadvantage when competing against English language media giants for national advertising.<sup>106</sup> Univision claims that it needs to increase its scale and scope in order to capture some of the same economies already enjoyed by such companies as News Corp, Viacom, and GE/NBC. It claims that vertical integration into radio and other media would allow it to offer national advertisers a full range of advertising outlets. With greater access to advertising revenues, Univision believes it would have the increased financial capability needed to expand and improve its program offerings and to acquire and convert English language outlets to Spanish language programming.<sup>107</sup> In addition, viewers would benefit by gaining access to information about mainstream products and services.

The available market data neither prove nor disprove Univision's claim. As discussed above, a large portion of the differential between Spanish language television audience share and advertising revenue share reportedly asserted by Univision President Ray Rodriguez can be explained by differences in household income. Moreover, the data in Tables 15 and 16 show that market forces have begun to reverse that situation, responding to the growing buying power and favorable demographics of the Spanish speaking population that became widely publicized as a result of the 2000 Census. This could suggest that consolidation in Spanish language media ownership is not needed to attract more national advertisers that in the past have used primarily or entirely English language media outlets.

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<sup>104</sup> Roberto Suro and Jeffrey S. Passel, "The Rise of the Second Generation: Changing Patterns in Hispanic Population Growth," Pew Hispanic Center, October 2003, at p. 5.

<sup>105</sup> Pew/Kaiser Survey at p. 13.

<sup>106</sup> See, for example, 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, quoting Univision president Ray Rodriguez, "When you go to see advertisers and you walk in to sell something and you've got a TV station and he's Viacom, he can make a better sales pitch. We believe putting our two companies together gets us one step closer to being able to compete better with English-language giants, and that only makes sense."

<sup>107</sup> Ann Radelat, "Broadcasting Battle: The highly politicized Univision case has roiled the world of Hispanic TV and radio," [http://www.hispaniconline.com/magazine2003/july\_aug/Panorama/journal-broadcasting], viewed on 10/10/03, citing Univision spokeswoman Stephanie Pillerdorf.

Still, there is some indication that consolidation could help attract additional national advertisers. According to audience and advertising share data presented by *Broadcasting & Cable*,<sup>108</sup> while NBC-owned Telemundo's share of the Spanish language audience fell from 21% in prime-time last year to 18% in the past 12 months (according to data from Nielsen Media Research), it received 35% of all Spanish language broadcast network revenues during the first six months of this year, up from 34% last year. Steve Mandala, executive vice president for sales at Telemundo, stated that "Our sales organization is quite literally a part of NBC's overall sales organization."<sup>109</sup> Bishop Cheen, director of fixed income at Wachovia Securities, states, "Many of the ad budgets for corporate imaging and marketing are controlled by the same big brand-name companies and agencies that NBC markets to."<sup>110</sup>

Part of the explanation for Telemundo's higher ratio of advertising revenues to audience share is the benefit of being part of a large English language media company. Also, Univision's viewers primarily are immigrants; about 70% are from Mexico.<sup>111</sup> By contrast, Telemundo's programming is targeted more toward bilingual viewers who were born in the U.S. or immigrated as children. The Telemundo audience has more of the demographic and income characteristics highly valued by advertisers than does the Univision audience. Nonetheless, Univision's inability to attract a share of national advertising commensurate with its ratings at least suggests that Spanish language networks, no matter how large they are within the Spanish language market, might be better able to compete against English language networks for national advertising by growing through vertical consolidation with other Spanish language media companies to expand the scope and scale of media outlets they can offer advertisers.

### **To what extent could consolidation in the Spanish language media market have anticompetitive effects that would harm consumers?**

Even before the Univision-HBC merger, there was a much higher level of concentration in Spanish language media than in English language media. Post merger, Univision's Spanish language media holdings and ownership or contractual ties to other large media companies give it a dominant position in almost every media market:

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<sup>108</sup> Kevin Downey, "Telemundo Gets Its Share: Though lagging Univision in ratings, No. 2 net grabs 35% of market's ad dollars," *Broadcasting & Cable*, September 8, 2003, at p. 30.

<sup>109</sup> *Id.*, at p. 30.

<sup>110</sup> *Id.*, at p. 30.

<sup>111</sup> See David Kaplan, "A niche no more: Spanish-language networks are becoming media titans," *The Houston Chronicle*, June 23, 2002, at p. A1.

### **Univision’s Spanish Language Broadcast Television Holdings.**

- Univision owns the largest (Univision) and third largest (TeleFutura) Spanish language broadcast television networks, which have a combined rating share of 82% and more than 60% of Spanish language broadcast network advertising revenues.<sup>112</sup>
- Univision owns and operates 32 full power and 18 low power television stations.<sup>113</sup> Eleven of its full power television stations ranked first among Spanish language television stations in their respective designated market areas (Los Angeles, New York, Miami, Houston, Chicago, Dallas/Ft. Worth, San Antonio, San Francisco, Phoenix, Fresno, and Sacramento) based on total audience rank of adults 18 to 49 years of age.<sup>114</sup>
- Univision has a 31% equity interest (that under the terms of the Final Judgment must be reduced to 10% within 6 years) in Entravision Communications Corporation, a diversified Spanish language media company that owns 49 broadcast television stations that have affiliation contracts with Univision networks that run through December 31, 2021.<sup>115</sup>
- Under the terms of the FCC order, Univision will continue to have a waiver to FCC rules intended for “nascent networks” allowing it to represent its non-owned television affiliates in the spot sales market for non-network advertising time.<sup>116</sup>

### **Univision’s Spanish Language Cable Television Holdings.**

- Univision owns Galavision, the leading Spanish language general entertainment basic cable television network in the U.S., which reaches 5.7 million Hispanic cable and direct broadcast satellite subscribers.<sup>117</sup>

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<sup>112</sup> Kevin Downey, “Telemundo Gets Its Share,” *Broadcasting & Cable*, September 8, 2003, at p. 9.

<sup>113</sup> Univision 10-K, at p. 6-7.

<sup>114</sup> *Id.* at p. 7.

<sup>115</sup> Department of Justice Competitive Impact Statement, *United States of America v. Univision Communications Inc. and Hispanic Broadcasting Corporation*, Civil Action No. 1:03CV00758, In the United States District Court for the District of Columbia, May 7, 2003, at p. 2, [<http://www.justice.gov/atr/cases/f201000/201006.htm>], viewed on 10/10/03.

<sup>116</sup> “Joint Statement of Commissioners Jonathan S. Adelstein and Michael J. Copps, Dissenting,” Univision Order, at p. 49.

<sup>117</sup> Univision 10-K, at p. 7.

### **Univision's Spanish Language Television Programming Holdings.**

- Univision has exclusive U.S. rights to all of the programming of Venevision, Venezuela's leading Spanish language programmer, through 2017. Venevision is owned by the Cisneros Group, which is the largest Univision shareholder.<sup>118</sup>
- Univision has exclusive U.S. rights to all of the programming of Grupo Televisa, the dominant Mexican television group and the largest producer of Spanish language programming in the world, through 2017.<sup>119</sup> Grupo Televisa has a sizeable equity interest in Univision.<sup>120</sup>

### **Univision's Spanish Language Radio Holdings.**

- Post-merger, Univision owns HBC, the largest Spanish language radio broadcaster in the U.S., which owns and/or operates 63 radio stations in 15 of the top 25 Hispanic markets.<sup>121</sup>
- Post merger, Univision operates HBC Radio Network, which is one of the largest Spanish language radio broadcast networks in the U.S. in terms of audience delivery.<sup>122</sup>
- Univision has a 31% equity interest (that under the terms of the Final Judgment must be reduced to 10% within 6 years) in Entravision Communications Corporation, which owns and operates 55 radio stations in the U.S., most of which broadcast Spanish language programming.<sup>123</sup>
- Clear Channel, which is the largest radio group in the U.S., had a sizeable equity interest in HBC and, post-merger, will have a 3.66% voting stock interest in Univision.<sup>124</sup>

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<sup>118</sup> Id. at p. 11.

<sup>119</sup> Id. at p. 11.

<sup>120</sup> Grupo Televisa S.A. Form 20-F filed with the Securities and Exchange Commission on 6/30/2003, at p. 32.

<sup>121</sup> Univision Communications Inc., Form 10-K, received by SEC on 3/24/03, at pp. 4-5.

<sup>122</sup> Hispanic Broadcasting Corp. Form 10-K, filed at the Securities and Exchange Commission on 3/31/2003, at p. 1.

<sup>123</sup> Department of Justice Competitive Impact Statement, *United States of America v. Univision Communications Inc. and Hispanic Broadcasting Corporation*, Civil Action No. 1:03CV00758, In the United States District Court for the District of Columbia, May 7, 2003, at p. 2, [<http://www.justice.gov/atr/cases/f201000/201006.htm>], viewed on 10/10/03.

<sup>124</sup> Univision Order at paragraph 14.



### **Univision's Spanish Language Music Holdings.**

- Univision Music Group is the leader in record sales of Latin music in the U.S. and Puerto Rico and accounted for approximately half of the regional Mexican music sold in the U.S. in 2002.<sup>125</sup>

### **Univision's Spanish Language Internet Holdings.**

- Univision owns Univision Online, Inc., which, in its first full year of operation, 2001, became the number one Spanish language website for U.S. Hispanics, and retained its leadership position in 2002.<sup>126</sup>
- Univision operates HBCi, which operates HBC's Internet websites and a network of Hispanic community-focused bilingual websites.<sup>127</sup>

*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.<sup>128</sup>

In addition, Telemundo is a large Spanish language media company with many Spanish language broadcast television stations, the second largest Spanish language broadcast television network, and a large Spanish language cable network, Mun2.

The extent to which Univision (or to a lesser extent Telemundo) could exploit concentration in the Spanish language media market to harm consumers depends on the extent to which television viewers and radio listeners view English language programming as a reasonable substitute for Spanish language programming and (in turn) the extent to which advertisers who seek to place advertising on media outlets view English language media outlets as effective alternatives to Spanish language outlets. It also depends on the ability of Univision to use its existing market power to raise competitive barriers or otherwise undermine the ability of other Spanish language program providers to provide effective competitive alternatives.

As discussed earlier, approximately one-fourth of the Spanish speaking population does not speak English well and more than half of all bilingual households prefer Spanish language news programming and primarily watch Spanish language networks. In 1994 and again in 2000, Roslow Research Group performed a study of the effectiveness of Spanish vs. English advertising among Hispanic

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<sup>125</sup> Univision 10-K, at p. 8.

<sup>126</sup> *Id.* at pp. 8-9.

<sup>127</sup> Hispanic Broadcasting Corp. Form 10K filed with the Securities Exchange Commission on 3/31/2003, at p. 1.

<sup>128</sup> Catherine Yang, "A Test for Big Media: Bueno o Malo?," *Business Week*, May 12, 2003, at p. 70. But given that Telemundo, by itself, receives 35% of Spanish language broadcast network revenues (*see* footnote 83 above), the *Business Week* estimate may be too high.

teens.<sup>129</sup> Teens are more likely to be bilingual than adult Hispanics and therefore more likely to be responsive to English language advertising. The study found in 1994 and had confirmed in 2000 that, among Hispanic teens:<sup>130</sup>

- commercials in Spanish are 40% more effective at increasing advertising awareness levels than are commercials in English;
- when it comes to message communication, commercials in Spanish are 16% more effective than commercials in English; and
- advertisements received in Spanish are twice as persuasive as advertisements received in English.

Since the rates per customer reached for advertising on television and radio stations with English language programming are higher than those for stations with Spanish language programming,<sup>131</sup> the availability of English language alternatives is not likely to be an effective curb on the ability of a Spanish language station with market power to raise its rates if consolidation reduces the availability or relative market strength of Spanish language alternatives.

Opponents of the proposed Univision-HBC merger asserted that, even prior to its merger with HBC, Univision already had market power that it has exploited to the detriment of competition. Telemundo has made several specific assertions:<sup>132</sup>

- Univision has used long term agreements that grant it, within the continental U.S., exclusive access to the programming of two major foreign Spanish language programmers, Televisa and Venevision, through the year 2017, even if it does not carry that programming, to deny competitors access to these major sources of programming;
- Univision has sought to reinforce its control over critical Spanish language content by limiting the appearances of its (or Televisa's) entertainment talent on Telemundo programs, and also alters its coverage of news or other events in order to excise any mention of Telemundo or Telemundo celebrities, and refuses to cover Telemundo talent.
- Univision or its affiliate stations have refused to sell advertising time to Telemundo to allow Telemundo to promote its programming on those Univision outlets, which tend to be the major Spanish language outlets in most large markets and thus represent the most

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<sup>129</sup> Roslow Research Group, "Spanish vs. English Advertising Effectiveness Among Hispanic Teens," 2000, available at [<http://www.roslowresearch.com/studies/91.doc>], viewed 10/10/03.

<sup>130</sup> *Id.* at p. 3.

<sup>131</sup> Market research company CMR/TNS estimates that Spanish language advertising rates are about 20-25% below those of mainstream media. *See* Catherine Yang, "A Test Case for Big Media: Bueno o Malo?," *Business Week*, May 12, 2003, at p. 70.

<sup>132</sup> August 21, 2003 Telemundo *Ex Parte* to the FCC, at pp. 4-13.

efficient way to inform viewers of Telemundo programming. In particular, some radio stations affiliated with Univision have refused to accept Telemundo advertising.

With respect to the first assertion, while it does not benefit consumers when unused existing programming is “warehoused” and therefore not available to competitors (and hence viewers), there is no indication that the warehoused Mexican and Venezuelan programming currently represents an essential input for which Univision’s competitors do not have alternative sources of supply. It is possible that denying competitors access to this available programming could raise their costs, if alternative sources of programming are more expensive. But the trend has been toward U.S. produced programming specifically targeting the U.S. Hispanic population. Telemundo itself states that it has rapidly moved from total reliance on outside (primarily foreign) programming sources to producing 70% of its programming in-house.<sup>133</sup> On the other hand, Univision continues to rely on these two sources for close to 50% of its programming, which must be extremely popular given Univision’s dominant ratings. There is no apparent benefit to consumers from the continued long term exclusive contract and warehousing of programs that Univision chooses not to use, but it is not clear that the practice currently has anticompetitive consequences.

The second assertion, like the first, would appear to be serious only to the extent that the talent to whom competitors allegedly are denied access represent an essential programming input. While it is true that the American public seeks media coverage of celebrities, the impact of denying non-Univision networks access to Univision celebrities does not appear to undermine their ability to offer programming. Univision has no obligation to share the popularity of its talent with its competitors. But this assertion does highlight the potential for a vertically integrated company with market power to leverage its market position in a fashion that could make it difficult for effective competition to develop. If Univision’s Music Group, which has a 35% share of the Spanish language market in the U.S., were to prohibit its talent from appearing on non-Univision television, cable, or radio networks, for example, that likely would constrain the ability of smaller competitors to the Univision, TeleFutura, and Galavision networks from having access to the type of talent needed to challenge Univision’s dominance. Typically, a programmer seeks positive publicity for its talent wherever such publicity is available; a network that refuses to allow its talent to be interviewed on other networks most likely is exhibiting market power.

The third assertion involves advertising on media outlets that reach a particular target audience. Telemundo wants to increase its relatively small audience share to become a not so distant second to Univision. It claims that the most effective way to reach potential viewers of its Spanish language television network 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

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<sup>133</sup> See footnote 73 above. See also the Univision Order, at footnote 107, which explicitly addresses this Telemundo allegation and finds that, even if true, it is unlikely to have competitive harm.

Telemundo spending 74% of its 2002 advertising budget on radio.<sup>134</sup> Univision and Entravision outlets have the widest reach to the Spanish speaking population. 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.

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

Some parties that compete with Univision have expressed concern that Univision continues to enjoy a “nascency” waiver from the FCC rule prohibiting television station affiliates from being represented by their affiliated network in the spot market for non-network advertising time.<sup>135</sup> The rule is intended to address two potential areas of competitive concern: (1) competition among national representation (“rep”) firms for station clients (where a station might choose the network's rep to improve its chances of getting or retaining a network affiliation), and (2) competition between networks and national spot advertising. A national rep firm often advises its client stations as to the appropriate level of their national spot rates. Without the rule, a network could act in the network's interest by assuring reasonably high spot rates to reduce competition with network advertising rates. Network-associated rep firms also can influence station programming decisions in favor of the network's program rather than a national spot program. With the waiver, Univision might be able to exploit its favorable position as the dominant television network to coerce its affiliates, such as the 49 affiliate television stations owned by Entravision, to use the Univision rep rather than an independent national firm, or to push its affiliates toward network advertising rather than national spot advertising.

These specific allegations raise the broader issue of the impact on competition, localism, and diversity of voices when a dominant media firm seeks to vertically integrate into related media markets – akin to the public policy debate that has

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<sup>134</sup> August 21, 2003 Telemundo *Ex Parte* to the FCC, at p. 4.

<sup>135</sup> 47 C.F.R. § 73.658(i).

surrounded the vertical integration of Clear Channel Radio.<sup>136</sup> If there is danger that a vertically integrated firm can extend its market power in one market into upstream or downstream markets, can that danger be better contained by ownership rules or by specific conduct rules?

### **What is the potential effect of consolidation in the Spanish language media market on small businesses, on the provision of local programming, and on diversity of voices?**

Opponents of the proposed Univision-HBC merger have argued that allowing the merger to be consummated would result in the Spanish language media industry being divided into “haves” associated with Univision and all others that would be “have nots.” They have argued that the integrated company would attract 80% or more of all advertising revenues flowing to Spanish language media,<sup>137</sup> raise advertising rates in a fashion that would harm small Hispanic-owned businesses, drive down commission rates to harm independent Hispanic advertising agencies, and leave too little revenue available for the small independent stations to continue to provide local news, public affairs, and entertainment programming, thereby reducing the diversity of Spanish language voices. The question for policy makers is: with the size of the Spanish language programming pie inexorably growing, with or without further consolidation, will consolidation augment and accelerate that rate of growth in a fashion that fosters local programming and diversity of voices, or will it place such a large portion of Spanish language media assets in one set of hands that localism and diversity of voices are harmed?

With or without consolidation, the number of minutes available for advertising on the major Spanish language television, cable, and radio channels with the large audiences sought by national advertisers is not likely to grow as quickly as the demand for that time, so advertising rates on those channels are likely to increase. Existing outlets can increase the minutes of advertising aired per hour, but only to a limited degree before viewers and listeners view the additional advertising as degrading product. Much of this advertising time historically has been purchased by companies that primarily serve the Hispanic community, and are small relative to national or multinational companies newly attracted to Spanish language media. But some of those traditional advertisers may be displaced by the national companies. In the short run, the displaced advertisers, who primarily are seeking to reach Spanish speaking customers, and therefore have limited options, are likely to turn to the smaller independent Spanish language outlets. Those outlets reach far fewer viewers or listeners, however. Market forces already exist and are likely to be quickly strengthened for the evolution of those independent outlets (and outlets newly converted to Spanish language formats) into new Spanish language television and radio networks, but it is not clear whether those new networks will be able to erode

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<sup>136</sup> See, for example, the transcripts from the Senate Commerce Committee hearings on radio ownership, January 30, 2003, and July 8, 2003.

<sup>137</sup> See Catherine Yang, “A Test Case for Big Media: Bueno o Malo?,” *Business Week*, May 12, 2003, at p. 70.

Univision's dominant audience share – or even survive. A key issue relating to consolidation, then, is whether it will facilitate the erection of new competitive barriers that would undermine efforts to develop Spanish language networks that could be more than fringe competitors to Univision.

It is difficult to put together an exclusively broadcast network today that would reach most of the Spanish speaking community – the scale needed to provide serious competition to Univision. Broad reach requires cable and/or satellite coverage. But as explained earlier, it is increasingly difficult for a new program network to gain carriage by large MSOs or satellite systems unless it is affiliated with existing popular programming (such as the Univision or Galavision networks) that provides leverage (and also cross-marketing possibilities) or it agrees to give the cable or satellite system an equity interest. If an independent programmer identifies a viable program focus for a new network, it still might not be able to successfully find distribution before an integrated giant could kill it with a copycat network.

It is possible, as additional networks are formed and there is more demand for Spanish language programming, that the long-term exclusive contracts between Univision and Televisa and Venevision and Univision's practice of effectively warehousing programming could have competitive implications if new programming sources do not develop. There could be real harm to viewers if the long term exclusive contracts denied new networks – and hence viewers – access to the Televisa and Venevision programming that Univision chooses not to air.

Higher advertising rates for the large Spanish language media outlets likely will harm those small Hispanic-owned businesses that have been accustomed to relatively low rates, but the higher advertising revenues generated can be expected in turn to generate more and better programming for consumers – as long as the large media outlets have to be concerned about the threat of smaller firms growing or of new competitive entry if they are not responsive to consumers. Similarly, if consolidation drives down the commissions for independent Spanish language advertising agencies, that need not be harmful to consumers as long as programming options remain available.

There is only anecdotal information available about the amount of local news, public affairs, or other programming currently offered by the various Spanish language media outlets – or whether individual outlets provide any such programming and hence a diverse voice. The larger Spanish language television stations, most of which are owned by or affiliated with Univision or Telemundo, appear to offer local news programming, but some smaller stations do not. The size of the owner may not be relevant. Univision reports that “most [of its stations] produce local news and other programming of local importance...”<sup>138</sup> It is likely that the Univision stations that do not produce local news or public affairs programming are the smaller Univision stations in a market in which Univision has more than one television station or a station in a small market. On the other hand, some independent low power stations, despite limited reach and limited funding resources,

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<sup>138</sup> Univision 10K, at p. 6.

have made special commitments to local news and public affairs programming. But others do little more than broadcast music videos.

In its discussion of radio-television cross ownership rules in its recent media ownership proceeding, the FCC stated: “[W]e do not include low power television and low power radio stations in measuring viewpoint diversity. These stations are often operated with the express purpose of serving niche audiences with ethnic or political content that larger media outlets do not address.”<sup>139</sup> Yet, many observers find that low power television has been an important source of local news and diverse voices for the Spanish speaking community. Given the concentration of the Spanish speaking population in certain neighborhoods, low power television can serve that community efficiently.

One important public policy issue is the impact of consolidation on these independent Spanish language voices. On one hand, they would no longer provide a diverse local voice in the market if they become the second station of a large company and either discontinued local news or simply rebroadcast the primary station’s programming, or if they remained independent but lost advertising revenues to a dominant competitor and could no longer afford to produce local programming. On the other hand, if consolidation accelerated the flow of mainstream advertising dollars to Spanish language media, with the overflow demand for limited major station advertising minutes financing additional Spanish language stations and networks, then the smaller stations would be able to expand their local news programming and their voices.

There appear to be important market characteristics unique to Spanish language programming. From the demand perspective, many Spanish language households do not view English language programming as a good alternative and therefore some advertisers do not view English language programming as a good alternative. From the supply perspective, there are important foreign sources for entertainment and non-local news programming, and low power broadcasting can help meet some of the niche needs of Spanish speaking households. The option exists to explicitly take these unique characteristics into account when reviewing proposed license transfers involving broadcast stations that provide primarily Spanish language programming, as would be required by H.R. 3027 and S. 1563. As an alternative or complement to such structural regulation, it might be feasible to implement rules of conduct. Such rules might prohibit dominant companies from using their existing market power in an anticompetitive fashion, for example, by prohibiting dominant media companies that exceed threshold levels of audience share for unique populations from refusing to accept competitors’ advertising

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<sup>139</sup> Report and Order and Notice of Proposed Rulemaking, *2002 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket 02-277; *Cross-Ownership of Broadcast Stations and Newspapers*, MM Docket 01-235; *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, MM Docket 01-317; *Definition of Radio Markets*, MM Docket 00-244; *Definition of Radio Markets for Areas Not Located in an Arbitron Survey Area*, MB Docket 03-130, adopted June 2, 2003 and released July 2, 2003, at paragraph 399. The Report and Order was published in the *Federal Register* on September 5, 2003, at 68 FR 46285.