

Remarks of Chairman Kevin J. Martin
Congressional Hispanic Caucus Institute Conference
Technology Summit
Washington Convention Center
Washington, DC 20554
October 2, 2007
(As Prepared For Delivery)

I would like to start off by thanking Congressman Baca for inviting me to participate in this summit on digital television. I would also like to take a moment to thank Congressman Serrano for his support of the agency as the Chairman of our Appropriations Subcommittee.

Congress has required that all broadcasters stop broadcasting in analog and begin broadcasting in digital on February 17, 2009. This digital television (DTV) transition is one of the Commission's top priorities. Generally, we must do all we can to minimize the burdens that consumers will face and maximize their opportunities to benefit from the transition. A critical component of a smooth transition is also consumer education.

We also have a special responsibility to ensure that specific communities, such as the Hispanic community, that disproportionately rely on over-the-air television do not bear too much of the burden and receive the benefits of the DTV transition.

Today, approximately 15 million homes rely solely on over-the-air broadcasting for television. About one-third of all these over-the-air viewers are primarily Spanish speakers. Indeed, almost half (43%) of homes where Spanish is the primary language rely exclusively on over-the-air broadcasting for their television. Spanish speaking consumers are therefore three times as likely to rely on over-the-air television. While the Commission must do everything it can to ensure that all viewers may benefit from the transition, it has a special responsibility to minimize the burden placed on and maximize the benefits to these Spanish speaking viewers.

Policy Proceedings to Minimize the Burden on Consumers

The Commission has been focused on what actions we can take to put the right policies in place for the upcoming transition. A successful completion of the digital transition depends upon ensuring that appropriate policies are in place to minimize the burden and cost borne by consumers.

I believe that one policy action in particular could fundamentally change for the better the course of the digital transition. The idea is simple: broadcasters should be able and encouraged to use the digital spectrum they already have to send multiple television signals to consumers for free.

Let me give you an example of what I am talking about.

Right now, a broadcaster using analog technology transmits one programming stream, which we think of as a television channel. But with the digital spectrum, technology enables broadcasters to put out not just one programming stream, but several. So, Spanish language broadcasters could broadcast 2 or 3 channels of Spanish programming with no additional cost or spectrum. So, a Spanish language broadcaster could put on a movie on one channel, and at the same time put on a channel of 24-hour news and a channel of sports programming. Or it might put on a channel of community activities including school board meetings and kids' sporting events, a news channel, or a cooking channel. They can even do a high definition channel as well as another 1 or two programming streams. Simply put, Spanish language broadcasters could provide more free television programming to the Spanish speaking community.

I believe that the ability to view all of these channels would facilitate the transition by providing people with an incentive to go get a converter box. As things stand today, over-the-air consumers must purchase a converter box (or buy a digital TV) just to maintain the status quo. They have the burden of purchasing new equipment just to ensure that their televisions will not go dark the day after the transition. This burden that the digital transition places on consumers is probably why a majority of those aware of the transition think that the government is on the "wrong track" according to a recent APTS survey. The message that we have been sending is simply not appealing - - you need to buy a new box or else.

But what if instead the message to consumers was, "If you get a digital television or a converter box, you will be able to watch a wide array of new free programming?" Then what was a burden for consumers becomes a meaningful benefit. The opportunity to enjoy more programming choices would give consumers an actual incentive to be excited about adopting digital technology. And, the faster that this technology is in consumers' homes, the less chance there is that Americans will be left in the dark after the digital transition.

This proposal is how it worked in Germany. In Berlin, the opportunity to receive more free channels drove people to proactively purchase converter boxes instead of viewing the need to do so as a burden imposed by their government. Before the transition, over the air viewers in Berlin received only 12 channels. After the transition, they received 27, more than twice as many. A German government report analyzing the transition concluded, "the switchover resulted in less protest than had been anticipated," in part because of "[t]he added value of receiving more services." (Berlin Goes Digital, http://www.mabb.de/bilder/Projektbericht_engl.pdf.) I believe that what worked in Germany could work here as well.

The only way we can make this a reality, however, is if the cable companies are required to carry these additional channels. And as is the case today, cable operators should be required to carry this free programming. In regulatory lingo this is called "multicast must carry." To date, the FCC has not required them to carry anything beyond a broadcaster's main signal. But as the courts have recognized, cable carriage is necessary for broadcast channels to survive.

Today, there simply is not an economic model by which a broadcaster can support a free programming stream that reaches only over-the-air households. As a result, without the guarantee of cable carriage, Spanish language broadcasters are not able to invest in creating a second or third free programming stream.

And despite the demand for more Spanish language programming, cable carriage is no guarantee. For example, just recently, the Washington Post reported that Maryland's first public all Spanish-language channel, [V-Me], is not being offered to more than 2/3 of the state's Latino population because Comcast has refused to carry it. Spanish language broadcasters should have the assurance that if they invest in additional Spanish language channels and offer them to the Spanish language community for free that they will get carried.

With respect to the impact on cable operators, it is important to understand that one analog broadcast stream (what cable operators are already required to carry) takes up 6 MHz on the cable system. But, because of digital compression technologies, even if a broadcaster used its entire digital spectrum to transmit multiple programming streams, those digital channels would take up at most 3 MHz of capacity on the cable system. Moreover, there is a statutory cap on the amount of capacity that cable operators could be required to use to carry broadcast programming, and a multi-cast must carry requirement would not alter that cap.

Finally, you may be asking whether Spanish language broadcast stations really want to offer consumers this additional free over-the-air programming. That question is perhaps best answered by my co-panelist, Joe Uva, President of Univision. And, I'm sure you will hear more about this directly from him in a few minutes. But both Univision and Telemundo have told the Commission they are anxious to offer multiple channels of Spanish language programming for free if they can only get it carried.

Let me take a moment and read to you what Telemundo told the Commission more than a year ago....

“Multicasting should enable Spanish-language stations to better serve the many diverse backgrounds and cultures that comprise the U.S. Spanish-language television audience. Nationally and locally, Telemundo invests millions of dollars to develop our own programming in order to serve viewers from more than a dozen Spanish-speaking countries or distinct societies, many of whom have their own dialects and unique concerns.”

“Multicasting, along with cable carriage, will create new opportunities for such programming to serve Spanish-language viewers throughout the United States. The question is not whether Telemundo or other programmers will develop such programming; much such programming is already available. The real question will be whether the viewers who want such programming will be able to access it via their local cable operator, as many Spanish language viewers look to their local cable operator for television programming. Telemundo's own recent experiences with local carriage issues

confirm that, without a requirement that cable operators transmit all of a local station's free, over-the-air programming, many consumers may not be able to access even a single new Spanish-language multicast offering.”

Just as Spanish-speaking homes are disproportionately impacted by the digital transition, so would Spanish-speaking homes be disproportionately benefited by multicasting. Ensuring that at least Spanish language broadcasters have the realistic opportunity to multicast may be the single most important thing the Commission can do to foster additional Spanish language programming, ease the burden of the transition on Spanish-speaking households, and guarantee that Spanish-speaking homes receive all the benefits of digital broadcasting.

About 16 months ago, I circulated a proposal to my colleagues that would facilitate multicasting and require cable companies to carry these multiple streams of free programming to consumers. Unfortunately, this item remains pending today. Nevertheless, I remain hopeful that a majority of Commissioners will realize the potential this item has to allow Americans, particularly Spanish-speaking viewers, to realize the full benefit of the digital transition.

There is another proceeding that we have ongoing that should help facilitate a smooth transition. Specifically, just yesterday, the record closed in our DTV Education NPRM where we seek comment on whether to require the industry to use bill inserts, public service announcements, and other techniques to educate consumers about the transition. Although I commend the industry for the recent consumer education campaigns that they have initiated, I believe that more needs to be done. I hope that the Commission is able to complete the DTV Education proceeding quickly.

Consumer Outreach to the Hispanic Community

Now let me turn to the Commission's education and outreach efforts. We have been dedicating resources to focus specifically on groups that may otherwise be unaware of the upcoming transition, such as the Hispanic community. We have recently hired Keyla Hernandez-Ulloa to spearhead the Commission's digital television outreach to the Hispanic community. I am sure that many of you will get to know her very well in the upcoming months.

As many of you know, we recently held a DTV workshop at the Commission and several members of the Hispanic community participated as speakers. I believe that although this workshop was a start, it is important that we hold additional workshops to focus on specific communities that will be disproportionately impacted by the transition.

One of the additional workshops that we will host will focus on non-English speaking consumers and minorities. We look forward to working with the Congressional Hispanic Caucus and many of you in this room as we plan this workshop that will be held later this year.

Already, the Commission has been working closely with many organizations representing the Spanish-speaking population. For example, we have attended and distributed DTV consumer education materials at several major conferences including the National Council of La Raza and the National Hispanic Chamber of Commerce. Over the next year, we will be participating in national conventions for the League of United Latin American Citizens, National Hispanic Leadership Council, the Hispanic Chamber of Commerce, and the National Association of Latino Elected and Appointed Officials.

We have also been distributing DTV information to Hispanic media outlets as well as to the Hispanic Federation of Agencies which is a network of social service agencies. We have given interviews to various Hispanic media. For example, the Hispanic Communications Network, which produces media campaigns for radio, television, print and Internet, taped an interview with Commission staff that will be distributed to its 230 member radio network in the United States and Puerto Rico. And, we will soon be doing an on-air interview on the digital transition for Univision's national morning news program that will air nationally.

Importantly, all of our digital television (DTV) consumer education information, both in print and on the Internet, is available in Spanish. In fact, some of our DTV materials and posters are in this room today. Not only is our pre-recorded information on our toll-free line available in Spanish but we also have dedicated Spanish-speaking agents to handle calls.

Now everything I have described so far is being done under our current funding levels. We have been trying to make the most of our existing resources. With respect to our future efforts, I would like to thank Chairman Serrano who increased the DTV consumer education funding portion of the Commission's budget from our requested amount of 1.5 million dollars to 2 million dollars. Although we have yet to receive this money, I am hopeful that we will soon.

Should we receive this funding, we are planning to contract with information distribution services to more directly target Hispanic consumers through retail stores and other outlets. This would include, for example, the placement of easy to understand DTV informational material in local grocery stores, community centers, and other public locations that Hispanic consumers are likely to visit.

To the extent that any of you have ideas on how we can work with your organization to get the word out about the upcoming transition, please let us know. For example, as soon as it came to our attention that Spanish speaking consumers might be confused by terminology for certain words, such as "converter box," we changed our references on all publications and Internet pages to be consistent with the wording suggested by the Hispanic community. And, more recently, at our DTV Workshop, some of you told us that efforts to reach the Hispanic community may be better accomplished through community-based organizations and churches, rather than direct government contact.

What you have to say is important to us. We are continually looking for organizations to partner with and we welcome all of your input. There is a lot to do, and not very much time to do it in.

Conclusion

Once again, I would like to thank Congressman Baca and the Congressional Hispanic Caucus for inviting me to be here today. The Commission's highest priority is protecting the American consumer. We intend to take whatever actions are necessary to minimize the potential burden the digital transition could impose on consumers and maximize their ability to benefit from it. The Commission has already taken some important steps but there is still more we need to do. I look forward to continuing the working relationship that we have with many of you. And, I look forward to forging new partnerships with those of you that we have not yet begun to work with. The next 16 months will undoubtedly be challenging. Nevertheless, it is my hope that, with the right policies in place, American consumers will reap the rewards that the digital transition has to offer.

- FCC -

EX PARTE OR LATE FILED
DOCKET FILE COPY ORIGINAL



1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 637-4535
FAX: (202) 637-4530

ORIGINAL

June 12, 2006

By Hand Delivery

RECEIVED

The Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

JUN 12 2006

Federal Communications Commission
Office of Secretary

Re: *Ex Parte Presentation – CS Docket Nos. 98-120*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. §1.1206, this letter reports that Ibra Morales, President of the Telemundo Stations Group, with Victor Cabral and Bill LeBeau, Senior Counsels (collectively, the "Telemundo Representatives") addressed the above-referenced proceeding with the following persons in a series of separate communications on June 8, 2006: Chairman Kevin Martin and his legal advisor, Heather Dixon; Commissioner Deborah Taylor Tate and her legal advisor, John Grant; and Commissioner Robert McDowell and his legal advisor, Cristina Pauzé.

In these meetings, the Telemundo Representatives discussed the many public benefits of not allowing cable operators to strip out any free, over-the-air digital programming broadcast by a local station that has elected must-carry upon the nation's transition to digital. Telemundo's concerns reflect the unique challenges faced by many local television stations that are attempting to serve the nation's Spanish-language community, and how the advent of digital television, including multicasting, has the potential to address two of the most significant issues facing Spanish-language television.

First, multicasting should enable Spanish-language stations to better serve the many diverse backgrounds and cultures that comprise the U.S. Spanish-language television audience. Nationally and locally, Telemundo invests millions of dollars to develop our own programming in order to serve viewers from more than a dozen Spanish-speaking countries or distinct societies, many of whom have their own dialects and unique concerns. However, when an individual Telemundo station has to choose between programming of interest to the general Spanish-language community and a single valuable subset of that community, the station, on balance, cannot ignore the needs of the broader community, which necessarily causes Telemundo stations to circumscribe the amount of more narrowly focused programming they can air.

No. of Copies rec'd 081
List A B C D E

These challenges notwithstanding, Telemundo recognizes the value of such programming to *specific segments of our viewership*. In several markets, Telemundo stations try to provide some targeted programming, where it may be done consistent with these stations' broader service to the Spanish-language community as a whole. For example, Telemundo's Puerto Rico station routinely develops 40-plus hours of local programming per week. Telemundo would be interested in delivering some or all of this programming to over-the-air viewers in other markets, many of which includes substantial numbers of persons of Puerto Rican descent, but is limited by having only a single analog channel that is assured of reasonably broad distribution. Other individual Telemundo stations also broadcast unique or innovative programming intended to better serve a particular subgroup within the Spanish-language community – in New York, for example, our station, WNJU(TV), Linden, New Jersey, airs a weekly program focusing on issues related to the Dominican Republic. Again, however, the limited airtime available to a single Spanish-language station in turn limits the ability of stations in other markets to acquire or to develop such diverse programming.

Multicasting, along with cable carriage, will create new opportunities for such programming to serve Spanish-language viewers throughout the United States. The question is not whether Telemundo or other programmers will develop such programming; much such programming is already available. The real question will be whether the viewers who want such programming will be able to access it via their local cable operator, as many Spanish-language viewers look to their local cable operator for television programming.¹ Telemundo's own recent experiences with local carriage issues confirm that, without a requirement that cable operators transmit all of a local station's free, over-the-air programming, many consumers may not be able to access even a single new Spanish-language multicast offering. More than a decade ago, Congress required that cable operators carry on their basic tier all free, over-the-air analog programming from full-power local television stations within those stations' television markets. Congress did not extend similar protection to most low-power television stations.² The result has been that Telemundo stations and affiliates without full-power status are not assured of cable carriage on the basic tier, which means that many cable subscribers cannot access Telemundo's established *analog* programming without paying higher monthly charges, even when they can access it at all.³ Without a

¹ See Media Bureau Staff Report Concerning Over-The-Air Broadcast Television Viewers, MB Docket No. 04-210 at n.17 (released February 28, 2005) (suggesting that, nationally, approximately 67 to 72 percent of U.S. Hispanic television households use means other than over-the-air analog broadcast to access television programming.)

² See, e.g., 47 U.S.C. § 534(h)(1)(B)(i) (excluding low power television and television translator stations from definition of "local commercial television station").

³ See, e.g., *Amendment of the Television Table of Allotments to Delete Noncommercial Reservation of Channel *39, 620-626 MHz, Phoenix, Arizona, and to Add Noncommercial Reservation on Channel 11, 198-204 MHz, Holbrook, Arizona*, Memorandum Opinion and Order, MB Docket No. 04-312, at ¶¶ 10, 15 (released October 13, 2005) (addressing the differences in local cable carriage of Telemundo's established Class A station in Phoenix and a proposed full-power Phoenix station). For decades, the Commission has recognized that Spanish-language stations often require protection from efforts of cable operators to refuse such local stations carriage within those stations' local markets. See, e.g., *Tele-Media Company*, 10 FCC Rcd 8615, 8617 (CSB 1995) (citing *Amendment of Part 76, Subparts A and D of the Commission's*

requirement that cable operators carry all free, over-the-air digital programming broadcast by a local station, cable subscribers likewise will not be assured access to their local Telemundo station's multicast programming.

Second, multicasting should enable a Spanish-language station to spread unavoidably high fixed operating costs across more programming. Spanish-language stations frequently must operate in the nation's largest television markets in order to serve the U.S. Spanish-language community. Of the nation's top-10 Hispanic Designated Market Areas, six also are in top-ten television markets overall, and eight are in the top-20 overall.⁴ Because only a particular segment of the market's larger audience can understand programming offered in Spanish, however, Telemundo stations frequently operate as small-market stations, in terms of revenues, even while facing the higher costs commonly associated with large-market stations. Indeed, in many cases, Telemundo stations face higher programming costs and more logistical challenges than English-language stations.⁵ However, as has been noted elsewhere in this docket, multicasting again offers stations an opportunity to overcome these challenges by creating a greater amount of possible advertising time that may be sold, assuming that viewers are able to access that programming via their local cable service as such access will be vital in providing a large enough audience to be appealing to the advertisers necessary to continue to offer such programming.

Rules and Regulations Relative to Adding a New Definition for "Specialty Stations" and "Specialty Format Programming" and Amendment the Appropriate Signal Carriage Rules, Memorandum Opinion and Order, 58 FCC 2d 442, 452 (1976), recon. denied, 60 FCC 2d 661 (1976)). Similarly, issues regarding access to local Spanish-language stations have not been limited to cable. Prior to the passage of the Satellite Home Viewer Improvement and Reauthorization Act of 2004, many Telemundo viewers were not able to access their local Telemundo affiliate, even when that affiliate has must-carry rights, without acquiring and installing a second dish, which resulted in many viewers not being able to access the signal. See 47 U.S.C. § 338(g)(1).

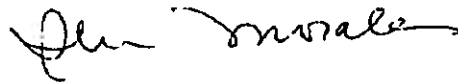
⁴ See, e.g., http://www.tvb.org/rcentral/markettrack/Top_25_Hispanic_Markets.asp (last viewed June 12, 2006). According to 2006 Nielsen data, the top-ten Hispanic DMAs are, in order: Los Angeles, New York, Miami, Houston, Chicago, Dallas, San Antonio, San Jose-San Francisco, Phoenix and Harlingen-Brownsville, Texas. Approximately 55 percent of the nation's Hispanic television households reside in one of these ten markets. See *id.*

⁵ See, e.g., *Closed Captioning and Video Description of Video Programming*, Order on Reconsideration, 13 FCC Rcd 19,973 (¶¶ 93-95 & nn. 303-04) (1998) (referring to higher costs and more challenging logistics of captioning Spanish-language programming as reasons for extending timetable for captioning Spanish-language programming).

The Secretary
June 12, 2006
Page 4

An original and one copy of this *ex parte* letter are being filed with the Secretary's Office as required by Section 1.1206(b)(2) of the Commission's Rules. Please contact the undersigned via the above contact information if there are any questions with respect to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ibra Morales". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ibra Morales
President, Telemundo Stations

cc: Chairman Kevin Martin
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell
Heather Dixon, Legal Advisor to Chairman Martin
John Grant, Legal Advisor to Commissioner Tate
Cristina Pauzé, Legal Advisor to Commissioner McDowell