

**PRESS STATEMENT OF FCC COMMISSIONER JONATHAN S. ADELSTEIN,
DISSENTING**

**Una Visión Para Los Que Hablan Español En Los Estados Unidos
“One Vision” For U.S. Spanish Speakers**

Today, we missed an opportunity to show we got the message sent loudly by the American people, Congress and the courts. Our response to the public outcry is to rubber stamp a massive media merger of two giants in their field.

This decision deals a devastating blow to millions of U.S. Latinos by clearing the way for Univision Communications – by far the nation’s dominant force in Spanish-language television – to take over Hispanic Broadcasting Corporation, the nation’s largest Spanish-language radio group. By allowing this transaction to go forward with no protections for consumers, the FCC denies Spanish speakers their right to receive a diversity of perspectives over the nation’s airwaves. The FCC’s duty to protect the right of every person in this country to a diverse array of broadcast media should have translated into Spanish. Instead, the FCC is turning a deaf ear to millions of Spanish-speaking Americans.

This merger’s approval signals that it’s now open season for media concentration. If we can let this one go with no real conditions or consumer protections, anything goes in the wide-open media grab of the future. We did nothing to ensure that every segment of the public can get their news and information from a wide variety of sources. Instead, showing insensitivity to the more than 15 million Americans who speak only or mostly Spanish, we reduce the options available to Spanish speakers, saying go find diversity on English-language media. Today’s decree from the FCC is: “Let them eat English.” “Déjelos comer Inglés.” Learn English if you want the choices others in this country have.

This is the latest and greatest example of the dangers posed by the FCC gutting its media ownership protections. Supposedly updated to reflect current market realities, the new rules don’t address concerns about Spanish-language media. As traffic cop over media concentration, the FCC should have either stopped this merger entirely, designated it for a hearing, or at the very least allowed it to proceed only with cautionary conditions. Instead, the FCC is simply giving a green light to Univision’s quest to further dominate Spanish-language media.

The company is aptly named Univision – “one vision” – because that’s just about all we’re going to get from Spanish-language media from now on. Whether Spanish speakers watch broadcast or cable TV, listen to the radio, buy CDs, or surf the Internet, they will face the monolithic Univision – a reach no other media company comes close to attaining with its respective audience.

Consider Univision’s market power and the potential for abuse. Already, Univision owns the leading Spanish-language television network, with more than 70% audience share, as well as the rapidly-growing 3rd-largest network; more than 30 full-power TV stations which reach more than 40% of the country; the leading Spanish-language cable network; exclusive U.S. programming rights to shows of the largest producer of Spanish-language programming,

preventing other outlets from obtaining even the programming Univision doesn't air; and the country's leading Latin music recording and publishing company. Univision also owns the nation's leading Spanish-language Internet portal, and has significant financial interest in and contractual relationships with Entravision, Univision's largest affiliate group and 2nd-largest Spanish-language radio operator. Outright ownership of radio is the missing key to a Univision-dominated kingdom over all Spanish-language media – and today the FCC hands that key over.

No English-language media company has influence anywhere near Univision's over Spanish-language media. And now the FCC permits Univision to buy a radio group that HBC proudly boasts is "larger than Clear Channel" in "the Hispanic arena." Post-merger, Univision will control two-thirds of the rising \$2.5 billion spent by advertisers on Spanish-language broadcast media. It will become the gatekeeper for the vast majority of information Spanish speakers receive over their airwaves. The FCC just this summer excluded cable and satellite networks from its diversity analysis to focus on sources of local programming, but now claims that these networks offer adequate competition, localism and diversity for Spanish speakers.

A Pew Hispanic Center study found that 47% of U.S. Hispanics (18.2 million people) are linguistically Spanish-dominant, with 40% (15.5 million) speaking and understanding "just a little" (29%) or "no" (11%) English. This merger will vastly diminish the diversity of viewpoints available to them. Spanish-language programming isn't simply another entertainment format, such as smooth jazz or classic rock, to people who don't speak English. The language in which a station broadcasts determines whether its message is understood. Spanish-speaking Americans, just like all Americans, deserve a diversity of viewpoints they can understand over the public airwaves, not just "one vision" – Univision.

The majority's perfunctory analysis assumes that all cultures understand and interchangeably use different languages. One doesn't have to speak Spanish or be an advertiser seeking to reach the nation's 38.8 million Hispanics to recognize the obvious truth that Spanish-language media isn't the same as English-language media. Univision itself makes this case convincingly in its sales materials – in sharp contrast to its FCC filings. Language is the fundamental link for accessing news and information vital for civic and cultural participation in our society. In defiance of this basic reality, the FCC relegates people who speak only or mostly Spanish to find a diversity of media viewpoints surfing through English-language offerings, never explaining how they are supposed to fully comprehend them.

But the Department of Justice knows better, yielding to common sense and empirical evidence that advertisers seeking to reach predominantly Spanish-speaking Americans cannot and do not turn to English-language media – just as advertisers seeking to reach Americans who speak English do not turn to Spanish-language media. The Justice Department wisely heeded commercial realities and the primary importance of language and found a separate Spanish radio market. While the Justice Department looked only within radio, the FCC just this summer affirmed that it views radio and television in the same market for diversity purposes. Even with its broader public interest authority, the FCC rejects the Justice Department's findings out-of-hand, and dismisses its own precedent. Last year, the FCC found that Spanish stations "do not compete directly" with English stations, confirming a longstanding recognition that programs broadcast in a particular language are of little interest to those who don't speak the language.

Even for bilingual viewers, only 17% report using Secondary Audio Program (SAP) often, which is not surprising, given its lack of availability for local news programs and the number of broadcasters who have dropped it.

Today's decision does nothing to curb Univision's enormous power over Spanish-language media, despite well-documented allegations of anticompetitive practices. After the merger, Univision will gain a stronger position to lock up Spanish-language advertising. Already, Telemundo says radio stations in which Univision has a financial interest have refused to sell it ad time to promote its TV shows. Merger opponents also claim Univision prohibits its talent from appearing on rival networks even for an interview or awards program. These practices run counter to typical corporate behavior in a functional marketplace, and are not tolerated on English-language media. Imagine NBC prohibiting the stars of Friends from appearing in an interview on CBS. That Univision can get away with these practices signals the near-monopoly power it already wields in Spanish-language media. With the addition of HBC's radio stations, Univision gains even more power to crush competitors and thwart upstarts that might otherwise challenge its dominance. In short, today's approval greatly deters new entrants into Spanish-language media and adds to the barriers Univision's few competitors already face – barriers that English-language media companies don't have to overcome. The result is not merely a loss to Univision's rivals, but a loss of diversity to the public as well.

Univision says it just wants to get as big as English-language media giants so it too can compete. But Univision already is a large vertically-integrated media conglomerate – the 5th largest TV network overall – and the gap in advertising revenues is narrowing rapidly as everyone from politicians to corporate America catches on to the growth and buying power of the Hispanic community. Even more preposterous, the decision allows Univision to continue selling advertising for its affiliates under a special waiver of FCC rules it obtained on the basis of the nascent Spanish-language media market. So today the FCC lets a \$7.8 billion company continue benefiting from special regulatory treatment it received as a “fledgling” entity – special treatment other smaller networks don't enjoy. It's hypocritical of the majority to argue so strongly there is nothing distinct about Spanish-language broadcasting and then continue a special waiver for the dominant player premised upon the existence of a separate market.

After all the adverse reaction to the FCC's recent weakening of its media ownership rules, we should have treated this merger as we have other major media mergers, with public hearings and in-depth market analysis. We should have spelled out exactly how the public stands to benefit. Instead, today's action represents the FCC's latest defeat of the public interest. We again received thousands of cries from the public against further media consolidation – many this time conveyed in Spanish – yet we ignored them as if we didn't understand a word. We also ignored opposition from numerous Latino/Hispanic organizations, public interest groups, churches and church leaders, and many members of Congress and state representatives.

Our media ownership protections should protect everyone in this country. Today's decision is not just a setback for Hispanics – it's a concern for everyone who believes in the integrity of the public airwaves. Because this transaction threatens unprecedented media concentration for our nation's Spanish speakers, who are no less deserving of protection than English speakers, I dissent.