

**Remarks of FCC Chairman Kevin Martin
Panel Discussion for CHLI/Hispanics and the Media
Washington, DC
September 24, 2008**

(As Prepared for Delivery)

Good morning. I want to thank the Congressional Hispanic Leadership Institute for holding this panel discussion and giving me the opportunity to offer a few remarks concerning this important issue. I'm also pleased that Rep. Diaz-Balart is here and wish to thank him for his leadership.

In order to ensure that the American people receive the full benefits of a competitive and diverse media marketplace, we need to create more opportunities for different, new, and independent voices to be heard. I believe it is important that the Commission continually look for ways to foster the development and growth of those voices.

Over the past year, the Commission has taken steps to address concerns that lack of access to financing and spectrum are preventing new entry into broadcasting and thwarting the efforts of smaller broadcasters, including a number of minority-owned or targeted stations, to serve their communities. We continue to work on those issues.

Last December, the Commission adopted a number of measures designed to promote diversity in the ownership of broadcast outlets. Among these, we modified the "equity/debt plus" attribution standard to allow higher investment in "eligible entities," small businesses that often include minority-owned businesses, without triggering attribution under the rules. And we encouraged more established entities to create and maintain incubator programs to foster new entry into broadcasting.

Also, on July 29th, the Commission met in New York to hold an *En Banc* hearing and Conference on Overcoming Barriers to Communications Financing. The conference brought together potential broadcasters and people from the financial community to determine what we can do to try to facilitate access to capital for new entrants in broadcasting.

Of course, there are a number of other measures that I have advocated to aid broadcasters – including minority-owned or targeted broadcasters – such as “multicast must carry.”

With the end of the DTV transition less than five months away, we must do all we can to minimize the burdens that consumers will face and maximize their opportunities to benefit from the transition. 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.

As I said last year when I had the privilege of addressing the Congressional Hispanic Caucus, 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.

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. Spanish language broadcasters could broadcast 2 or 3 channels of Spanish programming – for example, a channel of community activities including school board meetings and kids’ sporting events, a news channel, or a cooking channel – with no additional cost or spectrum.

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. 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. 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.

In 2006, 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.

Among other measures, I have also proposed that broadcasters use digital multicast technology as a method of sharing spectrum, allowing those with excess capacity to provide that spectrum to someone else to be able to put out a television signal, which would then be able to invoke must carry rights. I even offered the idea that we only allow “eligible entities” – small businesses, including women- and minority-owned businesses – to take advantage of this proposal. Unfortunately, a majority of my colleagues would not vote to adopt a Notice of Proposed Rule Making to even get comment on this issue.

This is not a new idea. The Commission has channel-sharing and spectrum-sharing arrangements in the radio field. And it’s that ability to share spectrum that provides an entry-level opportunity and helps cut some overhead costs to allow new entrants to get into the business of broadcasting.

The spectrum leasing idea is not without critics. Industry is opposed because they either don’t want to share the broadcast spectrum with any others, or they don’t want more channels being programmed by anybody else, or they don’t want to carry any more channels than they already have been.

Despite this, I am still looking for support to take advantage of the digital transition to put out new and independent voices and new independent perspectives. Spectrum sharing idea is one of the most significant opportunities presented by the DTV transition. MMTC endorsed the idea for a share time proposal in both the radio and TV context in their “Road Map for Telecommunications Policy” paper released in July.

Finally, I am interested in working to secure the future of stations in the low power television service, including Class A television stations, many of which are owned by or provide programming to minorities, and which contribute greatly to the goals of localism and diversity in television broadcasting. For example, in our Report on

Localism, the Commission tentatively concluded that we “should allow additional qualified LPTV stations to be granted Class A status.” The Commission has also sought comment on its ability to extend must carry rights to Class A television stations. MMTC supports the idea for carriage of at least a subset of Class A stations – “those providing regular daily local programming and serving underserved viewers.” Additionally, I have proposed to my colleagues a process by which Class A television stations can effectively become full power stations for all regulatory purposes and, therefore, become entitled to cable must carry.

In closing, let me say that I look forward to continue working with you to increase opportunities for Hispanics in the media.

Thank you for your time today.