

**KEYNOTE REMARKS OF FCC COMMISSIONER AJIT PAI
AT THE HISPANIC RADIO CONFERENCE**

FORT LAUDERDALE, FL

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Looking over the agenda for this year's Hispanic Radio Conference, I was immediately struck by the diverse range of speakers. In particular, there's quite a contrast between yesterday's keynote speaker, Jencarlos Canela, and today's keynote speaker, me. Let me try to describe the difference.

Last week, Jencarlos played Jesus Christ in FOX's live musical event *The Passion*, which had over 6 million viewers. I, on the other hand, testified last week in front of the Subcommittee on Financial Services and General Government of the U.S. House Appropriations Committee, which drew an audience of about 23 people. Jencarlos has been named one of People En Español's 50 Most Beautiful People. I've been told that I have a face made for radio. Jencarlos' Twitter account has 1.41 million followers; mine has 12,000. And Jencarlos has done musical collaboration with the likes of Pitbull and Emilio Estefan. My most recent musical foray was singing a duet with Chairman Tom Wheeler at an FCC holiday party.

Notwithstanding these differences, Jencarlos and I do have something in common—something that brought each of us to this conference. We appreciate the importance of radio in general and Hispanic radio in particular. Even though America's media landscape is changing, and changing fast, we must not lose sight of radio's enduring popularity. Each week, over 90% of American adults tune in. Among Hispanic adults, that figure is an astounding 97%. On average they listen to over 12 hours per week, the most of any demographic group. Hispanic millennials, too, still retain a strong connection to radio. Over 93% tune in each week, and they listen on average for over eleven-and-a-half hours.

As the Hispanic share of our nation's population rises, so too has the importance of Spanish-language radio. Spanish-language stations currently account for about one in five radio listeners in California, one in six in Texas, and one in nine here in the Sunshine State. Moreover, Spanish-dominant Hispanics listen to about one-and-a-half more hours per week than do English-dominant Hispanics.

So Spanish-language radio is thriving in America today. But it hasn't always been so. Getting Spanish-language radio off the ground in the United States wasn't easy. And I am sorry to say that the Federal Communications Commission, where I work, was part of the problem. In radio's early days, the FCC was reluctant to license radio stations that would broadcast in any language other than English. During World War II, there was a particular fear that non-English radio could be used as a means for transmitting seditious messages.

But where others see an obstacle, innovators see an opportunity. And Raoul Cortez was an innovator. In 1943, this Mexican-American entrepreneur applied to the FCC for a radio station license in San Antonio, Texas. He argued that a full-time, Spanish-language radio station would assist the war effort, not hinder it, because it could be used to build support for the cause among our nation's Spanish-speaking population. The FCC saw the merit in Cortez's argument and granted him a license. That station, KCOR, remains on the air today, broadcasting Spanish-language news and talk to the residents of San Antonio. Raoul Cortez's legacy also remains alive and well at this conference where the very best in Hispanic radio are presented each year with the prestigious Medallas de Cortez.

Just as the FCC was there for Raoul Cortez in the 1940s, I want the FCC to be there for Hispanic broadcasters who are following in his footsteps today.

During my time at the Commission, a few people have asked me why I've spent so much time on issues impacting the radio industry. My answer is simple: radio matters.

Radio delivers each and every day, covering local news, providing a forum to debate issues of the day, publicizing community events, and serving the needs of language minorities. And radio certainly matters during public safety emergencies. When disaster strikes, such as a hurricane right here in Florida, terrestrial radio gives people the information they need to stay safe and begin recovery efforts. If the power goes out, if the Internet goes down, and if wireless networks fail, you can still turn on your battery-powered radio and establish that critical connection to the outside world.

AM radio, in particular, still matters to the Hispanic community. As Claudia Puig, senior vice-president and general manager of Univision Local Media in South Florida, put it: “In many Latin American countries, radio is the medium of preference, so Hispanics are accustomed to getting their news and sports commentaries via AM radio. That tradition is still, to some extent, the norm that has carried into life here in the U.S.” Indeed, right here in Miami, four of the five AM radio stations with the largest listenership last month were Spanish language stations. And along those lines, I look forward to visiting tomorrow WPSP 1130 AM, La Primera, which provides news and information to Palm Beach County’s Hispanic population.

But we all know that the AM band faces serious challenges. Every day, it seems harder to get a good AM signal, and we see the impact in the marketplace. AM listenership is down, and advertising revenue along with it. Today, the AM band accounts for less than 20% of terrestrial radio listening in the United States.

That’s why in 2012 I called for the FCC to launch an AM Radio Revitalization Initiative. And that’s why I was so pleased that after years of hard work we issued an order last October to begin the process of revitalizing AM radio.

The aspect of that order that got the most attention involved FM translators. And it’s no secret that it was challenging for the Commission to reach a consensus. But we did ultimately reach a compromise that is already providing a lifeline to struggling AM broadcasters across the country.

In January, we opened a window in which Class C and D AM stations have greater flexibility to move an FM translator purchased in the secondary market. And later this year we will open a similar window for all AM stations. Then, we will open two more windows for AM stations still without an FM translator to apply for a new one.

Some people have asked me why the FM translator issue is so important. After all, translators aren’t the answer for the technical problems plaguing the AM band. I agree, and have long said that translators aren’t a panacea. But AM’s problems aren’t going to be solved overnight, and an FM translator can serve as a vital bridge to the future for some AM broadcasters as we work on fixing those problems.

Numerous AM broadcasters have spoken to me about the importance of expanding the availability of FM translators. I’ve heard firsthand how FM translators have helped some stations expand listenership and boost advertising revenue. And I’ve also heard from others who wanted to obtain an FM translator but couldn’t find one.

So I wasn’t surprised by the tremendous response to the opening of the first translator window. So far, we have received over 500 applications from AM stations. And even though fewer than two months have passed since the start of the window, the Media Bureau has already granted over 400 of them. The staff of Bureau’s Audio Division, which is led by the tireless, dedicated Peter Doyle, deserves an enormous amount of credit for their work in quickly processing these applications. I am very grateful for all of their efforts.

Dozens of these granted applications have come from Spanish-language AM stations all across the country. From KSPE in Santa Barbara, California to WOCN in Miami, Florida, from WRYM in New

Britain, Connecticut to WLRS in Eminence, Kentucky, the Commission has taken concrete action to help Spanish-language AM broadcasters.

And some of the other stations that have received translators also help to illustrate the diversity that is found on the AM band. For example, there's a Punjabi station in Yuba City, California, and two stations in Chicago that broadcast programming in Polish, Russian, German, and Korean.

Last October, we also reformed many of our technical rules pertaining to the AM band. The details of those changes are difficult for anyone who isn't an engineer to understand. But they will make a real difference to AM broadcasters. They will make it easier for stations to improve their signal quality, give stations more flexibility when it comes to site location, and reduce AM broadcasters' operating costs.

Of course, the Commission's work on AM revitalization is far from over. Last October, we also teed up a number of additional technical ideas suggested by stakeholders to help revitalize the AM band. I look forward to reviewing the public's input on those ideas. For any that have merit, I hope that the Commission will move forward swiftly. And beyond consideration of those specific proposals, we also need to continue the dialogue about the long-term future of the AM band.

Turning to another issue that I have focused on during my time at the Commission, we need to modernize our rules pertaining to foreign investment in the broadcast industry. Today, foreign companies own a majority interest in two of our four nationwide wireless carriers. A Dutch company owns our nation's seventh largest cable operator and has an application pending with the Commission to purchase our fifth largest cable operator.

Yet when it comes to broadcasting, the Commission continues to make it extremely difficult to access foreign sources of capital.

In 2013, the Commission took a small step forward by signaling that we would be open to greater foreign investment in the broadcast industry. But we still have a long way to go to allow broadcasters to benefit from an influx of foreign capital. That's why I was pleased that the FCC last fall proposed ways to liberalize our rules in this area.

First, we proposed to level the playing field by using the same streamlined rules and procedures for foreign ownership reviews in broadcasting that the Commission implemented in 2013 for common carriers. For example, if a common carrier can request Commission approval for up to 100% foreign ownership, why shouldn't a broadcaster be able to do the same? It can't be that 100% foreign ownership of a single AM radio station here in Fort Lauderdale raises more concerns than 100% foreign ownership of a nationwide wireless carrier with tens of millions of customers.

Second, we proposed to make it simpler to determine compliance with foreign ownership requirements. Today, all companies, including those that are publicly traded, have to tell us what percentage of their ownership is foreign. But brokers often hold shares of such companies in "street name" on behalf of their clients, and securities regulations prevent brokers from disclosing information about those clients without their permission. Thus, publicly traded companies generally don't know the identity of a large number of their shareholders. This can be a problem because the Commission presumes that an unidentified shareholder is a foreign investor for purposes of determining compliance with our foreign ownership limits.

These days, that presumption makes about as much sense as presuming that someone with an unlisted phone number is a fugitive from justice. That's why the Commission has asked for public input on both getting rid of this outdated methodology and fairer, more accurate ways to measure foreign ownership.

I hope we move forward on these reforms this year. That could be particularly beneficial for Hispanic broadcasters. For one of the greatest challenges that Hispanic broadcasters in the United States face today is access to capital. If we open up the U.S. broadcast market to greater foreign investment,

they'll have the chance to get funding from around the world, and in particular, Latin America. That's why groups like the League of United Latin American Citizens, the U.S. Hispanic Chamber of Commerce, and the National Puerto Rican Chamber of Commerce have urged the FCC to liberalize our approach to foreign investment.

One last point. These reforms will make it easier for Hispanic broadcasters to gain access to domestic sources of capital as well. That's because our rules for measuring foreign investment are so burdensome that they make it difficult for many companies to invest in the broadcast industry even if they don't have a substantial amount of foreign ownership. For example, Pandora recently purchased a single radio station in Box Elder, South Dakota. It took the FCC over two years to approve the purchase because the company had difficulty proving that foreign interests did not own over 25% of the company using the methodology mandated by the FCC. And this was despite the fact that the evidence in the record overwhelmingly suggested that Pandora did not come close to having a 25% level of foreign ownership.

Turning from capital to corsairs, I've also heard a lot of concerns about pirate radio. And it's fitting to discuss this issue here because the problem is particularly acute in southeast Florida. In my view, going after pirate radio operators needs to be a top priority for the FCC's Enforcement Bureau. That's not because shutting down pirate operations is easy. And it's certainly not because the work is glamorous; it's not going to lead to front-page *New York Times* headlines. But it is important because pirate radio operators break the rules and hurt people who play by the rules. They inflict economic damage on licensed radio broadcasters, and they also interfere with public safety communications, such as emergency alerts and weather forecasts.

That's why I was very disturbed when a whistleblower within the Enforcement Bureau gave me an October 28, 2014 email from the Bureau's Northeast Regional Director to field agents that included the following instructions: "We are scaling back on our response to pirate operations. Barring interference to a safety service, pirates should NOT be given a high priority (If there's interference to a safety service, it's not a 'pirate case' but instead a 'safety case.')" The email went on to state that "[w]e will NOT be issuing [Notices of Apparent Liability] to the majority of pirate operators."

When I disclosed this email last year, I ruffled some feathers at the FCC's Washington headquarters, which admittedly is a common occurrence these days. But I thought that it was critical to shed light on what was really going on, particularly because the instruction directly contradicted claims that had been made publicly by the agency's leadership about pirate radio enforcement.

And I believe that going public with my concerns has had a positive effect. In recent months, we've seen an uptick in pirate radio enforcement at the Commission. And earlier this month, all five Commissioners signed a letter regarding pirate radio that went to organizations such as the U.S. Conference of Mayors, Association of National Advertisers, and National Association of Residential Property Managers. We asked these organizations to help crack down on pirates. Advertisers, for example, should stop purchasing commercials on unlicensed stations, and landlords should not allow their buildings to host pirate radio facilities.

Unfortunately, even with the FCC's best efforts, we can't solve the problem alone. Too often, for example, our efforts to combat pirate radio becomes a game of Whack-A-Mole; stop a pirate radio operator transmitting from Building A, and he soon will be broadcasting a half-mile away from Building B.

That's why Congress needs to take action. One proposal is for the legislature to give radio broadcasters a private right of action against pirate operators. This would allow a broadcaster to directly sue a pirate who is interfering with its signal. No longer would a broadcaster need to wait for the FCC to take action. Commissioner O'Rielly has been a leader on this issue, and last year he introduced this proposal. I hope that lawmakers will give it serious consideration.

Congress may also want to explore whether to impose greater legal liability on companies who advertise on pirate radio stations. After all, that flow of dollars plays a key role in keeping pirates on the air. If a business knowingly purchases commercials on a pirate radio station, it is knowingly aiding and abetting unlawful behavior, and there should be consequences. Moreover, if companies don't perform basic due diligence and ensure that the radio stations on which they are advertising are licensed, there should be consequences for that negligent action as well.

There is one final issue that I'd like to discuss this afternoon. It doesn't involve radio but rather one of the few television stations in the United States owned by a Hispanic woman. Later this month, the FCC will begin the world's first television incentive auction. For a TV station that qualifies to participate, the FCC will ensure that the auction does not force them off the air involuntarily. For those that do not qualify for protection, there is no such guarantee.

And just last month, the FCC voted to take away the protection it had previously provided to WDYB-TV, a station owned by Nora Crosby Soto. It also decided to kick that station out of the incentive auction. WDYB is located about three-and-a-half hours up I-95 in Daytona Beach.

I strongly disagreed with the Commission's decision. After repeatedly indicating that WDYB would be protected during the auction process, I thought it was wrong for the FCC to suddenly change its mind less than two months before the start of the auction. It was wrong for the FCC to kick WDYB out of the auction based on a flimsy legal rationale. And it was especially wrong for the FCC to reject WDYB while continuing to protect a similarly situated television station in Los Angeles that isn't Hispanic-owned.

Following the FCC's decision, Ms. Soto said, "I have worked my entire life and sacrificed much to realize the American Dream. . . . I'm crushed, disappointed, and deeply saddened by the actions of the FCC that will jeopardize everything I've worked so hard to build." I understand her frustration.

Thankfully, the U.S. Court of Appeals for the D.C. Circuit stepped in last week and ordered the FCC to allow Ms. Soto to participate in the auction while the court considers her appeal. It is extremely rare for the court to grant such injunctive relief. The court's order indicates that it seriously doubts that the FCC did the right thing.

Now that the court has stepped in and required the Commission to keep WDYB in the auction, I hope that we'll take a second look at this issue and protect Ms. Soto's station. As the martial artist and actor Bruce Lee once said, "Mistakes are always forgivable, if one has the courage to admit them." In this instance, the FCC made a mistake and should have the courage to admit it. As I said in my dissenting statement last month, "it is impossible to reconcile the Commission's ostensible support for promoting diversity with such shabby treatment of one of the few television stations in this nation owned by a Hispanic woman." I hope that Hispanic broadcasters across the country join me in speaking up in support of Ms. Soto and asking the FCC to do the right thing.

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In conclusion, I'd like to thank the organizers of this conference for inviting me to speak and Hispanic broadcasters for all that you do each and every day to serve communities across our country. I firmly believe that the FCC should be your ally, not your adversary. If there is ever anything that I can do to assist you, please do not hesitate to reach out to me. You can visit my office, call, email, or even reach out to me on Twitter. Tengo una política de puertas abiertas.