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VIA COURIER

Larry A. Miller, Esq.
Assistant Division Chief
Video Services Division
Federal Communications Commission
Room 700
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Miller:

Enclosed you will find the written testimony of Jaime Davila, Chairman of the Univision Television Network, in MM Docket No. 93-48, the inquiry into the Commission's policies and rules regarding children's television. Mr. Davila will offer the enclosed testimony for the record, but his oral testimony during the en banc hearing will be abbreviated so as not to exceed the time being made available to each panelist. It is anticipated that Mr. Davila's oral testimony will generally follow the summary being submitted herewith, although he may amplify certain areas based on prior testimony during the proceeding.

If we can be of further assistance to you in this matter, please do not hesitate to contact any of the undersigned.

Very truly yours,



Grover C. Cooper
Clifford M. Harrington
Lauren A. Lynch

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BEFORE THE
Federal Communications Commission

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In the Matter of)
)
Policies and Rules Concerning)
Children's Television Programming)
)
Revision of Programming Policies)
for Television Broadcast Stations)
)
TO: The Commission)

MM Docket No. 93-48

**TESTIMONY OF
JAIME DAVILA, CHAIRMAN OF
THE UNIVISION TELEVISION NETWORK**

Dated: June 15, 1994

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SUMMARY

The Univision Television Network supports the Commission's goals in attempting to increase the availability of quality television programming for children. Univision has long sought to provide this type of programming for its audience and currently provides its affiliates with more children's programming than the Commission's guidelines propose.

Nevertheless, Univision encourages the Commission to consider the nature of Spanish-language children's programming and the particular burdens it places on Spanish-language stations when adopting its proposed guidelines. Specifically, Univision submits that Spanish-language stations' limited revenues for children's program production and the scarcity of Spanish-language children's programming from independent sources will make it difficult for Spanish-language stations, both initially and over time, to meet a strict quantitative minimum. Accordingly, Univision encourages the Commission to allow Spanish-language stations enough flexibility to secure or produce quality children's programming, which furthers the Commission's goals in this proceeding, rather than to enforce a strict minimum which could either force many Spanish-language stations out of compliance or to scramble for sub-optimal programming merely to meet the minimum.

Additionally, Univision submits that the Commission's proposal that half of a station's required children's program time be placed on the weekend and half be placed on the weekday is incompatible with program scheduling practices. Univision

therefore encourages the Commission to allow each broadcaster the discretion to schedule children's programs as is most appropriate for its individual children's audience.

Finally, Univision submits that the Commission's attempt to define "core" programming is overly restrictive and hinders the Spanish-language broadcaster's ability to program to the specific needs of its child audience, which in many cases may be different from those of an English-language children's audience. Therefore, Univision asks the Commission to defer to the broadcaster's discretion in this sensitive area.

It is Univision's intent to offer high quality educational and informational programming to meet the needs of Hispanic children in the United States. Univision asks that the Commission consider the unique nature of Spanish-language children's programming and to allow broadcasters the flexibility they will need to truly effectuate the goals of the Children's Television Act of 1990.

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TO: The Commission

**TESTIMONY OF
JAIME DAVILA, CHAIRMAN OF
THE UNIVISION TELEVISION NETWORK**

Jaime Davila, Chairman of the Univision Television Network ("Univision"), submits the following testimony on behalf of Univision in the en banc hearing in this proceeding.

I. The Dynamics of Spanish-Language Children's Programming

1. The Spanish-language television market is large and growing. Currently, Hispanics account for approximately 25.5 million people in the U.S., in 7.1 million households. Hispanic households represent both Univision's target and maximum potential audience. Univision is one of two Spanish-language television networks serving stations in the United States. Univision is the largest distributor of Spanish-language programming in the U.S., providing programming which accounts for two-thirds of all Spanish-language network viewing in this

country. In addition to programming produced by or for Univision in the United States, Univision has acquired rights to and is able to distribute to its affiliates popular Spanish-language entertainment, sports, and other programming produced for Spanish-language television markets throughout the world.

2. Children are a significant segment of the Spanish-language television market. Hispanic children make up over 10% of all children in the U.S. Half of these children, or 5% of children nationwide, live in homes where Spanish is spoken more than, or to the exclusion of, English by the adults present. Moreover, it is estimated that over the course of the 1990's, the number of Hispanic women of child bearing age will increase by 11%, while the number of non-Hispanic women of the same age group will decline by 2%. As a result, 20% of all children under the age of five in this country will be Hispanic as we enter the 21st century.

3. Univision recognizes the importance of informational and educational programming specifically directed to Hispanic children. Research has shown that children living in Spanish language-dominant homes need a strong initial base of Spanish language skills and instruction in order to ultimately develop English language skills and to succeed in English language instructional programs.

4. Two major problems, however, have hampered the ability of Univision and other Spanish-language program distributors to provide high quality children's programming. First, there are

limited revenues available to support the high production costs associated with quality children's programming. Second, quality educational and informational Spanish-language children's programming from syndicators and other domestic and offshore program sources is virtually nonexistent.

5. Despite the proven ability of Spanish-language television stations to reach Hispanic households, Spanish-language programming does not obtain its full share of advertising dollars. Thus, at the present time, Spanish-language stations account for only 1.5% of U.S. broadcast revenues. Moreover, the established market for advertising to Hispanic children is particularly small. Thus, there is a relatively small revenue base from which to meet the demonstrated need for quality Spanish-language children's programming.

6. This problem affects local station revenues, as well as those of the Spanish-language networks. Despite the objective evidence of the value of the Hispanic advertising market, Spanish-language stations still find themselves struggling to prove their worth to local advertisers. While children's programming has historically been unable to generate significant local sales revenue for all types of television stations, the problem is particularly acute for Spanish-language stations. Spanish-language stations often cannot sell even a single local commercial within or adjacent to children's programming!

7. Also at work limiting the availability of children's programming is the great expense associated with its production.

To hold a child's attention, a program must attain and maintain a level of quality which can be expensive to attain. Plaza Sesamo, a joint production of Children's Television Workshop and Televisa, the world's largest producer of Spanish language programming, is an example. Plaza Sesamo, the Spanish-language version of Sesame Street, features extensive use of life size puppets. This significantly increases production time and costs. Ultimately, the program costs ten times the amount necessary to create a Spanish-language general audience program of similar length and audience appeal.

8. These high production costs, combined with the low advertiser revenues associated with Spanish-language broadcasting, make Spanish-language children's programming unattractive to many program producers and syndicators. The problem is that there may be a sufficient market size and revenue base to permit profits to be derived from the production and distribution in the United States of English-language children's programs, but there is not a sufficient market and revenue base in the United States to permit profitable production and syndication of Spanish-language children's programming. Any quality programming concept for children likely will be marketed to the 85 million non-Hispanic homes before it is offered to the country's 7 million Hispanic homes. Accordingly, the domestic syndication market has been slow to respond to the needs of Hispanic children. To date, Univision has found only one suitable syndicated product, a half-hour animated program co-

produced by Hanna Barbera and Televisa (Cantinflas Y Sus Amigos).

9. Moreover, unlike the market for general audience Spanish-language programming, there is not a well-developed base of Spanish-language children's programming on the international market. Other Spanish-speaking nations have not established statutory requirements paralleling the Children's Television Act (the "Act"), and the advertising market for children's programming in Mexico, Spain, Central and South America is not well developed.

10. Finally, children's programming, in any language, is a highly specialized and extremely expensive type of program production with which only a few long-established entities have had success. Plaza Sesamo and Cantinflas Y Sus Amigos provide prime examples. These are the only instances that can be recalled in which Televisa has agreed to a co-production arrangement, the reasons being the cost of production, the experience and unique expertise required to produce such a program and the high risk of failure in an area of programming in which responsibility to viewers is the greatest. Televisa's decision to co-produce children's programming illustrates the unique difficulties faced by even experienced program producers when they venture into the uncharted waters of creating beneficial children's programming. Even more illustrative of the specialized nature of children's programming is the fact that, despite the great amount of expertise contributed by both Televisa and the Children's Television Workshop to its creation,

one version of Plaza Sesamo was deemed to be ineffective in communicating with children, and a new version had to be developed.

11. Even given these difficult realities, since the effective date of the Act, Univision has been able to provide its affiliates with many different programs of both an academic/instructional nature and a prosocial/developmental nature. Currently, Univision provides 2 and 1/2 hours of instructional programming during the week with a daily half-hour strip (El Tesoro Del Saber) and 3 hours of programming on the weekends which include a variety of live action, puppet and animated programming (1/2 hour of El Tesoro Del Saber, 2 hours of T.V. O and 1/2 hour of Cantinflas Y Sus Amigos). Commencing this fall, Univision plans to add two new program series (including Plaza Sesemo) and to re-run a series which aired in the past which has continuing prosocial and developmental value. Three additional program series have also been provided since the effective date of the Act, but those programs have come to their logical conclusion and are no longer aired. Likewise, available episodes of the current programs ultimately will be exhausted, and Univision will face a struggle with the lack of suitable product to replace these shows.

12. It is within the above context that the impact of regulations implementing the Act within the Spanish-language television segment must be evaluated. Univision urges the Commission to give consideration to the particular difficulties

faced by specialty-format stations, such as the Spanish-language stations affiliated with the Univision Television Network, in implementing the Act.

II. Minimum Programming Levels

13. The Commission has considered adopting a standard requiring television stations to broadcast a total of at least one hour of children's programming during the period comprised of the five weekdays (Monday through Friday) and at least one hour of children's programming during the period comprised of the two weekend days (Saturday and Sunday) (the "One Hour/Weekday-One Hour/Weekend" standard). Univision has no problem with the concept that at least two hours per week of qualifying programming should be broadcast during hours when children likely are likely to be in the audience. However, Univision believes that the One Hour/Weekday-One Hour/Weekend standard is unduly rigid and may stifle innovative and beneficial programming aimed at children.

14. Univision encourages the Commission to consider the practical difficulty of scheduling children's programming to meet the One Hour/Weekday-One Hour/Weekend standard. In Spanish-language programming, almost all weekday programming is produced with the intention that it be "stripped", that is, broadcast on a one episode per day, five day per week schedule. Scheduling one hour-long block or two half-hour blocks during a single weekday would be impractical, given the way in which general audience

Spanish-language programs are formatted for broadcast.

15. As a result, Univision's practice with children's programming on weekdays has been to broadcast each program on a five day per week basis, permitting the young audience to develop the habit of watching at a specific time. A station airing such a half-hour daily strip would broadcast 2-1/2 hours per week of children's programming, well exceeding the One Hour/Weekday-One Hour/Weekend standard's requirement for weekday programming. A station providing this amount of programming should have the discretion to broadcast less than one hour of children's programming during weekends. Even assuming no weekend children's programming, a station carrying such a half-hour weekday children's strip would still be broadcasting more children's programming than a competitor meeting the minimum One Hour/Weekday-One Hour/Weekend standard. Moreover, it is possible to have a far greater educational impact by reaching children through the continuity of a daily program shown five days a week, than through isolated weekend programming.

16. Finally, Univision notes that imposing strict minimum requirements for children's programming will make it more difficult for stations to experiment with innovative new programs. If a program proves, as one version of Plaza Sesamo did, to be ineffective, a broadcaster may be unable to secure alternate programs quickly. Imposing a rigid minimum may require a station to make the Hobson's choice of continuing "FCC acceptable" but nonetheless sub-optimal programming for children,

or cancelling the program, dropping below minimums, and facing sanctions from the FCC. Alternatively, a licensee facing such a predicament might seek to rush innovative new programming into production, with the inherent risk of a later ruling that the new program fails to meet an arbitrary FCC standard. These problems will be especially acute for Spanish-language stations which have a smaller pool of available product. Licensees should have broad discretion to program in the public interest, both to their general audiences as well as to children, and not have their reasonable decisions subject to the hindsight of regulatory authorities.

**III. Recommendation Regarding the Definition
of "Core" Programming**

17. Univision encourages the Commission to take a broad view of which programs will constitute "core" programs and reaffirm that prosocial themes deserve as much credit as academic ones. In the Spanish-language market, children from different countries who have grown up in households embracing different cultures will benefit from socialization to American themes. Accordingly, family-oriented programming may have very significant value in meeting the developmental needs of Hispanic children.

18. Univision is concerned that programs which reinforce family structures and teach civic involvement will receive secondary status to academically-oriented programs. This

uncertainty as to whether a program will qualify as "core" negatively affects broadcasters' willingness to invest the significant funds and effort necessary to produce a quality children's program. Here, again, too narrow an interpretation of qualifying programming will hinder rather than further the goals of the Act.

CONCLUSION

Univision urges the Commission to adopt guidelines which acknowledge the marketplace realities of children's programming and, in particular, Spanish-language children's programming. To that end, Univision asks that stations be given flexibility in securing and scheduling children's programs and that they not be required to meet a strict minimum standard. If a minimum is set, Univision encourages the Commission to allow stations additional time to meet the new standard and to allow shortfalls in meeting the standard without penalty whenever an ongoing series terminates and a replacement must be found. Finally, Univision asks the Commission to recognize the wide range of needs children have and to allow broadcasters to exercise their discretion in meeting those needs without having to fit within a narrowly-defined type of program called "core."

Dated: June 15, 1994