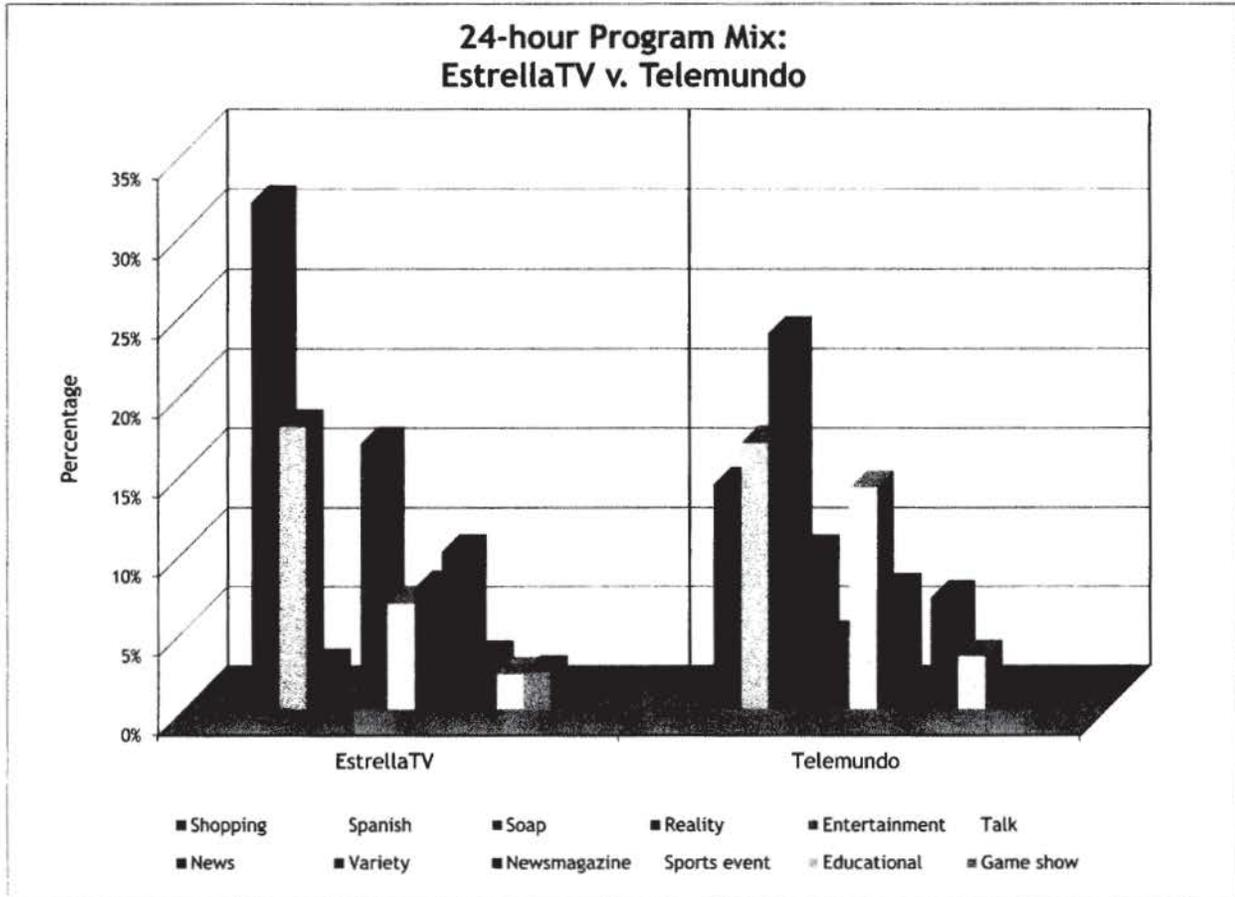


that I analyzed, these five categories constitute almost 76% of the total programming broadcast over the period.

25. The contrast with Telemundo is clear. “Shopping” makes up only 12–13% of the program day on Telemundo (less than half the percentage on EstrellaTV), including syndicated paid programming for products such as Luminess makeup and Nuwave cooking. “Spanish” is an area of relative overlap between Telemundo and EstrellaTV, with that category comprising approximately 15–16% of the Telemundo broadcast day in the three markets. EstrellaTV’s third most important category of programming, “Entertainment,” makes up only about 3–4% of Telemundo’s programming, in contrast to 15% for EstrellaTV. Telemundo has zero shows reflected in EstrellaTV’s fourth category, “Variety.” Finally, Telemundo does show “News” for 2–8% of the programming, depending on the station. In all, Telemundo devotes half as much time (32–41% vs. 76%) to the predominant categories of programming on EstrellaTV.

26. Another critical difference between the programming is the prominence of telenovelas (classified as “Soaps” by Gracenote) on Telemundo. This includes such shows as “El señor de los cielos” and “Tierra de Reyes.” “Soaps” makes up the largest portion of Telemundo’s programming, comprising 22% of all of Telemundo’s broadcast hours. That is more than 20 times higher than the comparable figure on EstrellaTV, which broadcasts “Soaps” approximately 1% of the time over the relevant period.

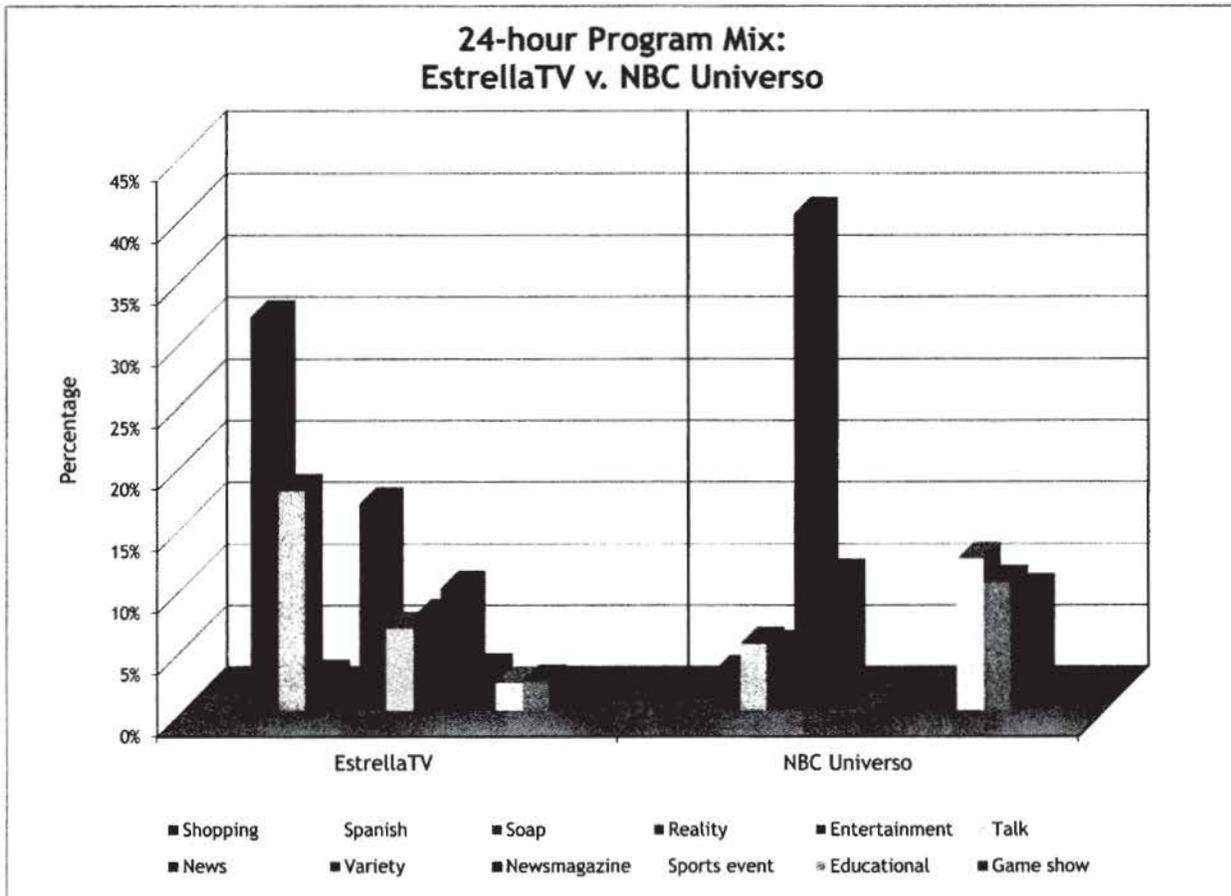
27. These distinctions between EstrellaTV and Telemundo are graphically represented in the following bar chart:



28. The contrast between the programming mix on the three EstrellaTV stations and NBC Universo is stark as well. NBC Universo devotes approximately 1% of its programming to “Shopping,” 3% to “Spanish,” 9% to “Entertainment,” 0.2% to “Variety” and 0% to “News.” Overall, the five categories that comprise approximately 76% of EstrellaTV’s programming make up only about 14% of the programming on NBC Universo. Notably, the dominant categories of programming on NBC Universo do not register as material categories of programming on EstrellaTV. “Reality” programming makes up 38% of NBC Universo’s broadcast hours; that category shows no programming on EstrellaTV. Another 10% of NBC

Universo’s programming is devoted to “Sports Events”; by contrast, that programming comprises less than 0.5% of the program hours on EstrellaTV.

29. These distinctions between EstrellaTV and NBC Universo are graphically represented in the following bar chart:



D. 24-hour Programming Excluding “Shopping” Analysis

30. In order to exclude the effects of paid programming, I also conducted an analysis of the programming mix during the period from July 1, 2014 to March 31, 2016 showing the EstrellaTV programming during the 24-hour period excluding “Shopping” (which includes paid programming and infomercials). Based on my analysis of the Gracenote data, the EstrellaTV stations devote the highest proportion of their non-infomercial programming to “Spanish” (23%), “Entertainment” (21–22%), “Variety” (12%), “News” (8–9%) and “Talk”

(7%). In contrast, the Telemundo stations devote the highest percentage of their schedule to “Soaps” (including telenovelas) (25–26%), “Spanish” (17–18%), “Talk” (14–15%), “Reality” (8–12%) and “News” (3–9%). NBC Universo’s programming is more heavily weighted towards “Reality” programming (39%), followed by “Sports Event” (10%), “Entertainment” (9%), “Educational” (9%) and “Game Show” (8%). The 24-hour program mix excluding “Shopping” analysis of the EstrellaTV stations in Denver, Houston and Salt Lake City; the Telemundo stations in the same market; and the NBC Universo network is shown in Table 3 in Appendix B.

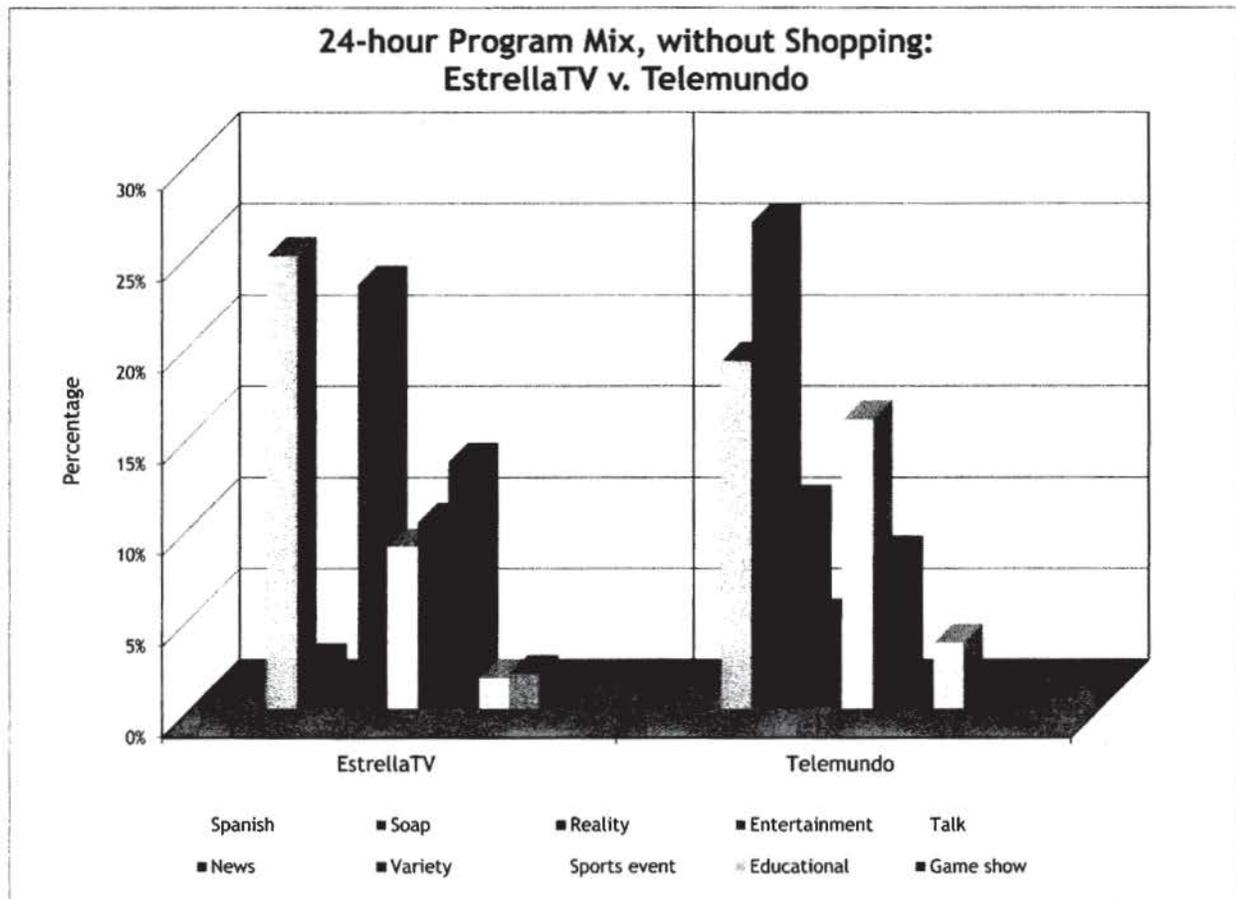
31. As with the prime-time and 24-hour analysis set out above, the 24-hour non-“Shopping” analysis reveals substantial differences in programming. For example, on the three EstrellaTV stations, 23%, or the largest percentage, is classified as the “Spanish” language movies genre vs. 17–18% for the Telemundo stations. The second largest prime-time programming category on the EstrellaTV stations is “Entertainment” at 21–22% compared to 3–4% for the Telemundo stations. EstrellaTV’s third and fourth largest program categories are “Variety” at 11–12%, which includes such shows as “Estrellas Hoy” and “A Que No Puedes VIP,” and “News” at 8–9%. In contrast, Telemundo stations have no “Variety” programming classified by Gracenote during the 24-hour time period, and on one station a substantially smaller (3%) percentage of “News.”

32. The top 24-hour non-“Shopping” programming category for the Telemundo stations is in the “Soaps” genre at 25–26%. That compares to 1% in this category for the EstrellaTV stations. The second-largest category is “Spanish” language movies (17–18%), followed by “Talk” (14–15%), which includes shows such as “Al Rojo Vivo con Maria Celeste” and “Un Nuevo Dia”, then “Reality” (8–12%) and “News” (3–9%). That compares to 23% of

“Spanish” programming, 7% of “Talk”-related programming and no “Reality” programs categorized on the EstrellaTV stations.

33. In total, the top five 24-hour non-“Shopping” categories of the Telemundo stations accounted for 73–74% of the Telemundo stations’ programming and just 39–41% of EstrellaTV’s programming.

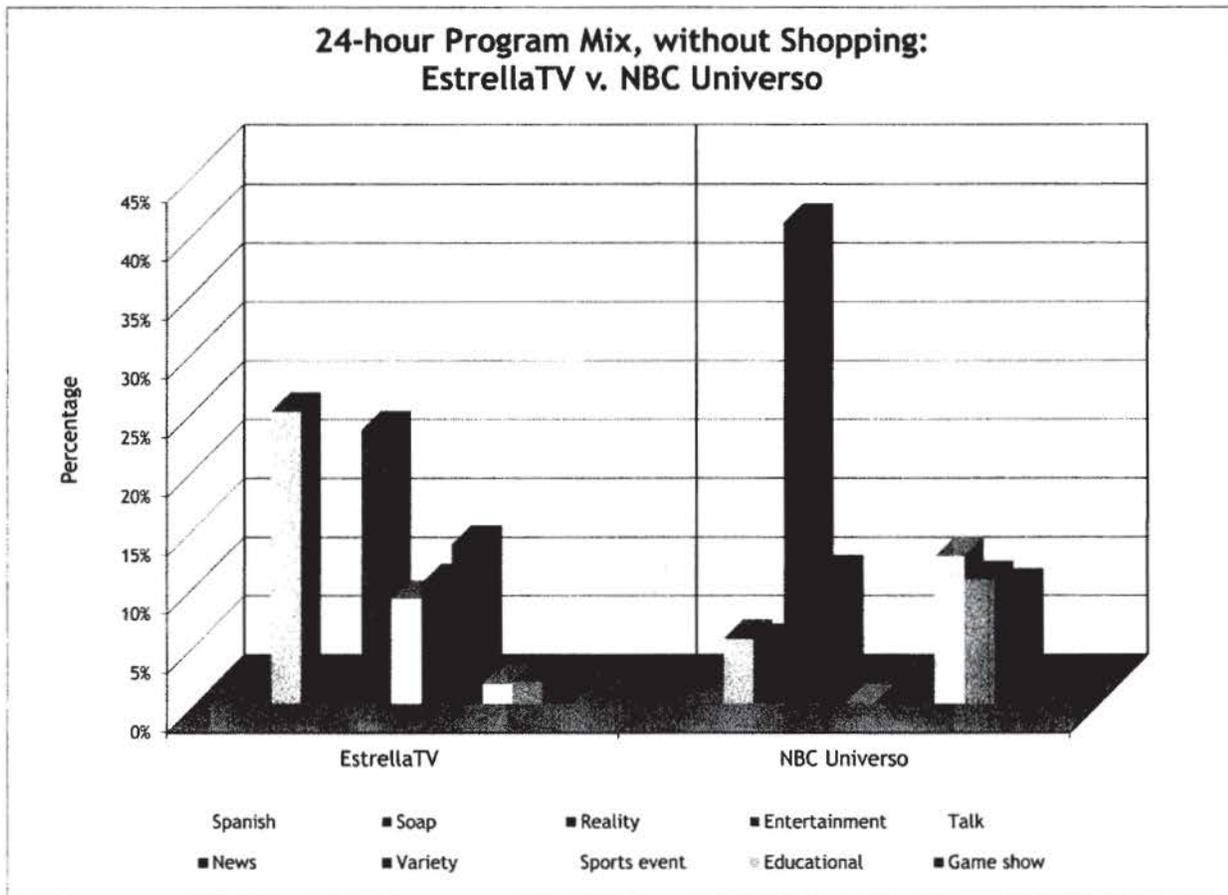
34. These differences in the EstrellaTV and Telemundo categories are graphically represented in the following bar chart:



35. The top categories of NBC Universo’s 24-hour non-“Shopping” programming include “Reality” at 39% (0% for the EstrellaTV stations), “Sports Event” (10% for NBC Universo vs. less than 1% for EstrellaTV stations), “Entertainment” at 9% and “Educational” at 9% (vs. less than 1% for EstrellaTV stations) and “Game Show” at 8% (0% for

the EstrellaTV stations). In total, the top five 24-hour non-“Shopping” categories of NBC Universo accounted for 74% of NBC Universo programming and just 23% of EstrellaTV’s programming.

36. These differences in the EstrellaTV and NBC Universo categories are graphically represented in the following bar chart:



IV. CONCLUSION

37. I conclude that, based on the Gracenote data I analyzed, EstrellaTV’s programming mix and predominant programming is not similar to that on Telemundo or NBC Universo, whether on a prime-time or 24-hour basis (inclusive or exclusive of “Shopping” paid programming). The two predominant categories of EstrellaTV’s prime-time programming are “Talk” and “Entertainment.” This squarely contrasts with the primary categories on Telemundo

in prime time, namely “Soaps” and “Spanish.” NBC Universo also focuses on entirely different prime-time programming, with large percentages devoted to “Reality” and “Sports”-related shows. The programming mix on a 24-hour basis (with or without “Shopping”) is similarly distinct within the predominant categories. Because the categorical overlap among programming on the networks is relatively small, I find that the networks overall are not similarly situated in programming mix and predominant programming genre.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: Monterey, California
June 3, 2016


Robin Flynn

EXHIBITS

EXHIBIT A – CONFIDENTIAL DOCUMENT WITHHELD

EXHIBIT B – CONFIDENTIAL DOCUMENT WITHHELD

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
LIBERMAN BROADCASTING, INC.)
and)
LBI MEDIA, INC.,)
 Complainants,)
)
 vs.)
)
COMCAST CORPORATION)
and)
COMCAST CABLE)
COMMUNICATIONS, LLC,)
 Defendants.)

MB Docket No. 16-121

File No. CSR-8922-P

Accepted / Filed

JUN - 7 2016

Federal Communications Commission
Office of the Secretary

EXPERT DECLARATION OF TOMÁS A. LÓPEZ-PUMAREJO

I. INTRODUCTION

1. My name is Professor Tomás A. López-Pumarejo. I have been asked by counsel for Comcast Corporation and Comcast Cable Communications, LLC (collectively, “Comcast”) to assess whether the programming on EstrellaTV is similar to that aired by Telemundo and NBC Universo. As set forth below, I conclude that there are distinct and important differences between the programming on EstrellaTV, on the one hand, and Telemundo and NBC Universo, on the other.

II. QUALIFICATIONS

2. For more than thirty years, my academic work has focused on the Hispanic media and programming landscape as both a literature and business and marketing scholar. I have studied multiple elements of Hispanic television programming, most particularly the behavioral and economic imperatives underlying the *telenovela* genre that comprises the centerpiece of programming on most Hispanic television networks. As a professor of business and marketing, I have studied various aspects of the Hispanic media landscape, including the ways in which television formats are exported and globalized and the roles they play in marketing, politics, and transmitting cultural and linguistic norms. My work is interdisciplinary and multilingual.

3. I hold a Ph.D. in Hispanic and Luso-Brazilian Studies with a focus on Mass Communication from the University of Minnesota. I also hold a doctorate in philology (the study of language) with a focus in film and television from the University of Valencia in Spain, and master’s degrees in Hispanic Literature/Sociology from Cornell University and Journalism/Public Communication from the University of Puerto Rico. I

am fluent in Spanish and Portuguese, have lived and worked in four countries, and am familiar with a range of Hispanic cultures and linguistic traditions.

4. I have taught at four colleges affiliated with the City University of New York for more than twenty years, first in media studies at Queens College and the College of Staten Island and then in the business school at Brooklyn College, where I am a full professor of business management, as well as at the School of Professional Studies. I have also been a Fulbright Fellow in Brazil, a fellow at the University of Valencia, in Spain, and a fellow at the University of Wisconsin.

5. Over the past decade I have worked on more than twenty-five (25) academic publications and eighteen (18) conference and seminar presentations on various topics relating to the media, and have served as a marketing consultant specializing in Latin American and U.S. Hispanic business since 1999. I also published the first major academic book on *telenovelas*. Additionally, since 2006, I have represented the United States on international research teams (Ibero-American Television Fiction Observatory (“OBITEL”) and “PROFITEL,” a media research group affiliated with the University of Barcelona) for the study of television (chiefly *telenovelas*) in the Spanish and Portuguese-speaking world. As part of this work, we studied patterns of production in Ibero-American countries, including by making detailed comparisons of programming.

6. I have attached my CV as Exhibit 1. My hourly rate is \$450.00 per hour. I have no financial interest in the outcome of this case.

III. SCOPE OF ASSIGNMENT AND SUMMARY OF CONCLUSIONS

7. I have been asked by Comcast to undertake a comparative analysis of the programming-related elements of three television networks: EstrellaTV,

Telemundo and NBC Universo. I understand that one aspect of this dispute may involve an inquiry by the Commission into whether EstrellaTV provides video programming that is “similarly situated” to video programming provided by Telemundo or NBC Universo based on various factors including target programming and content, target audience and look and feel.¹ This declaration reflects my findings and conclusions.²

8. A summary of my conclusions is as follows:

9. First, the networks air dissimilar types and genres of programming.

Telemundo devotes its entire weekday (“M-F”) prime-time block to the single most important genre of Spanish-language programming, the *telenovela*. Telemundo’s *telenovela* programming, moreover, is set in various geographic locations and reflects a substantial mix of Latino ethnic and cultural influences that are designed to appeal to a broad Spanish-language audience. EstrellaTV, in turn, intentionally counter-programs away from the *telenovela*, instead offering a mix of unscripted variety, competition, tabloid, and comedy shows with a heavy Mexican influence that will appeal to a distinct, Mexican-oriented audience. NBC Universo shows different programming altogether, with a heavy emphasis on sports-related programming, including broadcasts of major international sporting events, such as the Olympics, World Cup, and Premier League

¹ Comparing target programming and content, target audience, and look and feel between networks is central to understanding similarities or differences between networks. I understand that the Commission’s “similarly situated” analysis may also examine other comparative factors between networks, such as advertising, ratings and license fees. Other experts and witnesses will address those issues.

² While I recognize important differences in the fact that EstrellaTV and Telemundo are broadcast networks, with local broadcast programming in specific markets, and NBC Universo is a national cable network, my comparative study of these networks focuses on their national programming, which is both going to reflect programming shown in local markets and be representative of the programming on each network as a whole. While I do not have access to all EstrellaTV local market programming grids, the two I have seen—from disparate locations—showed the same programming slate, which indicates to me that this programming will be representative. Additionally, I understand that Comcast’s other programming expert will undertake a quantitative analysis of all programming aired on EstrellaTV, Telemundo and NBC Universo, across a 24-hour period, during the relevant time period.

soccer,³ as well as celebrity reality and fast-paced, action-oriented shows. I also reviewed content from many other shows on these networks outside of the M-F prime-time block, and found pronounced distinctions in those time periods as well.

10. Second, there are stark differences between a network targeting a distinct segment of the Spanish-language audience with its programming, and networks with varied programming designed to appeal broadly across Hispanic ethnic and cultural lines. As EstrellaTV expressly acknowledges in its statements and promotional materials, it focuses on programming appealing to a Mexican-American audience. EstrellaTV's programming is almost exclusively Mexican in talent, in narrative, in accent, in music, and in comedic form. Telemundo, in contrast, is a more diverse network with roots in the multinational media culture of Miami, and its programming—themes, casts, accents—represents the multicultural backgrounds of the broader Spanish-language audience it targets. Similarly, NBC Universo's programming is not targeted at discrete ethnic or cultural Hispanic segments, but is designed to appeal to all younger Spanish-speaking audiences with interests in sports, celebrity reality, and edgy programming.

11. Finally, each network has a distinct tone, look, feel, and thematic quality. EstrellaTV provides less-sophisticated entertainment through its comedy and variety shows. The language it uses, and the themes it amplifies—in its comedies and even on its tabloid news magazine offering—is often highly sexualized. Telemundo's focus on *telenovelas* and other scripted shows generates a more serious and dramatic

³ See, e.g., <http://www.nbcuniversal.com/business/NBCUniverso> (describing the network as offering sports programming “including FIFA World Cup™, NASCAR Mexico Series, NFL, Premier League and the 2016 Olympic Summer Games in Rio.”).

tone. NBC Universo programming provides excitement and a harder edge. These distinct characteristics are prevalent in the programming I viewed and throughout the networks' schedules.

12. After assessing all of these factors, I conclude that EstrellaTV is not similarly situated to either Telemundo or NBC Universo in target programming or programming content, target audience and look or feel.

IV. ANALYSIS

A. Key Background Elements of Spanish-Language Television

13. Before describing the methodology I used to prepare this analysis, I believe it is important to set out two contextual realities of the Spanish-language television environment in order to frame the discussion that follows: first, a comment on the Spanish-language media landscape, and second, a note on the defining genre of Spanish-language television, the *telenovela*.

1. The Spanish-Language Television Industry in the United States Has Separate Origins on the West and East Coasts

14. The Spanish-language television industry in the United States is diverse. The fact that two networks air programming in Spanish does not alone render them similar, any more than would the fact that two networks broadcast in English. Moreover, although some networks and programming might draw from similar sources—Latin American history or mythology or religion—it would be a mistake to understand Spanish-language programming as monolithic for this reason. Much as *Romeo and Juliet* and *West Side Story* build upon the same core story in creating very different artistic products, different networks within the Spanish-language television landscape attract

substantially different segments of the Spanish-speaking audience because of the ways in which they choose to package and present programming narratives.

15. The Spanish-language television industry in the United States springs from two distinct wells: the Mexican television industry, in the West, and the Cuban expatriate television industry, in Miami. For a long period of time, these two segments of the Latino programming culture remained distinct and isolated from each other. The West Coast industry showcases largely Mexican-oriented content (the Mexican melodramatic acting style, Mexican accents, Mexican music, Mexican celebrities, references to Mexican traditions), and the East Coast industry is built on the Miami sound and feel (a hybrid style, fusing Cuban, Caribbean, Central and South American and Puerto Rican styles, music, and talent) that is designed to appeal to a broad range of Spanish-speaking viewers in the United States regardless of ethnic background or specific cultural influences.⁴

16. Spanish-language audiences in the U.S. appreciate these cultural differences, distinguishing between networks that are heavily Mexican, for example, and those that are multinational or hybrid in form.

⁴ See, e.g., Kenton T. Wilkinson, *Spanish Language Television in the United States*, 22, 30, 34-53, 70, 86 (2016) (describing Mexican origins of Spanish-language television industry in the West, key demographic differences between Spanish-language populations in the West and East, and the migration of Cuban talent to Florida following the Cuban Revolution); John Sinclair, *The Hollywood of Latin America: Miami as Regional Center in Television Trade*, 4 J. Television & New Media 211, 214 (2003) (noting that “[w]hereas Univisión has always had ties to Latin America, particularly to Televisa, and is most popular with Hispanics of Mexican origin, Telemundo was launched with Anglo capital, and has been rather more oriented to the less populous groups from Puerto Rico and Cuba.”).

2. The *Telenovela* Is a Distinct Genre

17. It is also critical to understand the *telenovela*, the defining genre of Spanish-language television. It has its roots in the domestic novel,⁵ which became popular with women readers in particular during the industrial revolution. Nuclear families separated from extended families, and women who went to work, often as housekeepers, found themselves isolated from friends and family. Media such as women's magazines, which often published domestic novels in serial form, gave these women a sense of connection to others like them. The narratives combined familiar stories with advertising and embedded educational messages about, for example, health and relationships. This model merged fiction, advice, and advertising aimed at women and rendered, with the advent of radio, the soap opera. Later generations of Spanish-speaking women found similar solace first in the *radionovela* and then in the *telenovela*.⁶

18. The *telenovela* is best understood as a form of “domestic fiction,” or as classically “female,” distinct from “adventure fiction,” which is classically “male.”⁷ Scholars of literature use these labels, broad as they are, to make the following distinction: most action in fiction targeting women takes place in closed spaces (e.g., homes, restaurants, hospitals), and concerns are either romantic or family-related (e.g., falling in love with the wrong person, trouble with children). By contrast, fiction

⁵ The “domestic novel” refers to a type of novel popular with women readers in the mid-nineteenth century. The genre is characterized by a heroine’s struggles with romance, family, child-rearing and other relationships. The domestic novel was often published in serial form in women’s magazines. Academics have identified the domestic novel as the soap opera’s literary antecedent. See, e.g., Robert C. Allen, *Speaking of Soap Operas* 130-80 (1985). As the format began to be transformed into radio serial dramas, Procter & Gamble, Lever Brothers and other large multinational commercial advertisers implanted the U.S. serial radio soap opera model in Latin America, paving the way for indigenous broadcasting of the related *radionovela* and *telenovela* programming.

⁶ Tomás López-Pumarejo, *Radionovela*, *Diccionario de Literatura Popular Española* 277-78 (Joaquín Álvarez Barrientos ed., 1977); *Telenovela*, *id.* at 310-32.

⁷ I use these terms as they are used in literary and media studies, though of course they are overbroad.

targeting men takes place in wide open spaces (e.g., street chases, the outdoors). In “male” fiction, action is more important than consequences; in “female” fiction, consequences are more important than action.

19. These general observations apply to the *telenovela*. As *telenovela* audiences developed, some networks, particularly those in Mexico and Brazil, sought to diversify viewership in various audience niches (e.g., teenagers). Other networks, such as Telemundo in the U.S., began to combine sequences aimed at men and women, such that modern prime-time *telenovelas*, as distinct from the classic English-language soap opera, contain more and more action.⁸ By doing so, the network can appeal to a broader and multicultural adult audience. Nonetheless, the *telenovela* genre still is defined by the vertical romantic story at the core. The action sequences are peripheral, meant to spice up the presentation or diversify the audience, but as a genre—adopting the general definitions set out above—the *telenovela* retains its classically “female” form. (Note that even many of the most thrilling or action-oriented sequences in *telenovelas*—a final confrontation with a gun, for example—happen in closed spaces.)

20. *Telenovela* series also have a very recognizable structure. In their classic form, and unlike English-language television series, *telenovelas* air each weeknight for one hour, typically for about three to six months, and then conclude.⁹ They generally do not continue across seasons like English language television.

⁸ Another distinction between the English-language soap opera and the Spanish-language *telenovela* is that soap operas have a community of characters, not a protagonist, whereas *telenovelas* have a leading couple and a community of characters around them.

⁹ See, e.g., Cynthia Littleton, *How to Build a Better Telenovela*, *Variety* (Jul. 30, 2013), available at <http://variety.com/2013/tv/news/how-to-build-a-better-telenovela-1200569561/> (noting that *novelas* run “about 120-160 episodes, at an average cost of about \$70,000 per hour, up to about \$150,000”). Brazilian *telenovelas* often air for three months.

21. Finally, *telenovelas* can strongly reflect and appeal to distinct segments of the Latino audience. For example, Telemundo's *telenovelas* features casts, plots, and production styles from a range of geographies (Las Vegas, Miami, Brazil, Venezuela, Colombia, Peru, and Mexico), reflecting both the network's origins in the hybrid culture of Miami and its expansion across cultural lines within the entire Spanish-language audience. Other Spanish-language networks show *telenovelas* that are immediately distinguishable from Telemundo's, with, for example, casts that are largely Mexican or trained in the Mexican style, and who speak in recognizably Mexican accents.¹⁰

22. These distinctions can drive relative appeal amongst Spanish-language viewers. Audiences will be drawn to programming containing elements with which they will be familiar, perhaps because they can draw a connection with their homeland and national identity, appreciate cultural references, or have prior experiences with actors and other network talent. Depending on their target audience, networks will develop or acquire target programming that will appeal to this identified viewer segment.

B. Methodology

23. To prepare this declaration, I reviewed programming for EstrellaTV, Telemundo, and NBC Universo across sample periods in what I understood to be the relevant time frame. For the purposes of comparing specific programming, I focused on late 2014 (when I understand EstrellaTV sought to elect retransmission

¹⁰ Mexican-trained actors often exhibit a melodramatic, national flair in their acting styles. A good example of a Mexican-themed and influenced *telenovela* is *Destilando Amor* (2007), a popular *telenovela* broadcast on Televisa and Univision. This is a remake of a Colombian title by Fernando Gaitán, *Café Con Aroma de Mujer* (1994), which Televisa adapted for Mexican and U.S. audiences. A second example of a Colombian title by the same author, also adapted for Mexican and U.S. audiences, was 1999's *Yo Soy Betty la Fea* (*Ugly Betty*), which Televisa and Univision launched in 2006 as *La Fea Más Bella* (*The Most Beautiful Ugly Woman*).

consent in lieu of “must carry”¹¹ to late 2015 (the end of negotiations between EstrellaTV and Comcast).¹² In addition, I reviewed programming schedules; show-specific promotional clips; network branding materials, sizzle reels, and websites; advertising presentations; public statements, including via press releases and news clips, regarding programming strategies, target audience, target programming, and production approaches; internal Telemundo and NBC Universo reports, presentations, and analyses; and industry and academic literature regarding the Spanish-language television market in the United States, including drawing on my own work in this area.¹³

24. In order to make a fair comparison of programming across the three networks during the relevant time frame, I examined programming grids for the three networks in the fourth quarter of 2014 and the second quarter of 2015.¹⁴ As I had weekly programming schedules for these periods, I focused on programming for three sample weeks from each quarter: the weeks starting October 6, November 3, and December 1, 2014, and April 6, May 4, and June 1, 2015.

¹¹ Complaint at 23.

¹² Complaint at iv.

¹³ See, e.g., Ex. 2 (Programming Schedules for EstrellaTV, Telemundo, and NBC Universo for the sample weeks); Ex. 3 (EstrellaTV’s Upfront Deck from 2009, *available at* <http://www.lbimedia.com/pdf/UpfrontDeck2009.pdf> (last accessed June 1, 2016)); Ex. 4 (EstrellaTV’s Catalog from 2012, *available at* <http://lbimedia.com/pdf/EstrellaCURRENTcatalog.pdf> (last accessed June 1, 2016)); Nissenblatt Ex. 2 (presentation delivered by LBI to Comcast on October 14, 2014); sizzle reels, promotional videos, and websites for EstrellaTV, NBC Universo, and Telemundo and their shows available online, as listed (in part) in the footnotes herein and as represented graphically in Ex. 5 (exhibit illustrating programmatic differences across the three networks); a description of NBC Universo from NBC’s website, *available at* <http://www.nbcuniversal.com/business/NBCUniverso>; a significant number of internal presentations and branding materials for Telemundo and NBC Universo, a selection of which I have included here as Ex. 6; and sizzle reels for Telemundo and NBC Universo provided to me by Comcast.

¹⁴ See Ex. 2 (Programming Schedules for EstrellaTV, Telemundo, and NBC Universo for the sample weeks). The EstrellaTV grids are the following: EstrellaTV Programming Grid, Fourth Quarter 2014, <http://www.mor-tv.com/blob/view/-/26888366/data/2/-/kju11/-/Estrella-Program-Beginning-July-2014.pdf>; Estrella Programming Grid, Second Quarter 2015, <http://estrellaamarillo.com/wp-content/uploads/2015/04/Estrella-Amarillo-program-grid.pdf>. It appears that the grids are from Tampa/St. Petersburg/Sarasota (2014) and Amarillo (2015).

25. I began with prime time M-F, and watched sample clips—depending on the show, a handful to a dozen—for every show broadcast by EstrellaTV for the sample weeks. I used the grids to determine which shows to compare, and viewed clips of the shows aired during those periods, but not necessarily the episode aired on a particular day. Generally, I reviewed the show’s clips then-currently available on EstrellaTV’s website; in many instances, it was not clear if the particular episode had been aired during the relevant time period. In one case—a news show that is no longer on the air because the anchor died—I watched a series of clips available on YouTube. In addition to watching clips of the various shows, I also viewed, where available, the “promo reel” for a given show, to understand how the network wished to present the show. I did the same for the sample periods for Telemundo and NBC Universo. (Note that for the first sample quarter, NBC Universo was called “Mun2.” I understand that Mun2 was rebranded as NBC Universo in 2015.)

26. I then compared sample programming for other day-parts—daytime M-F and weekends—across all three networks using similar methodology. Other than movies, sports and paid programming, I viewed sample clips of every program aired by EstrellaTV, Telemundo, and NBC Universo in the applicable periods.

27. I also relied on publicly available information from EstrellaTV and information provided by EstrellaTV to Comcast, including marketing material, upfront presentations, and a catalogue of programming. I relied on similar information for Telemundo and NBC Universo.

C. Telemundo, EstrellaTV and NBC Universo Target and Show Distinctly Different Programming

28. My principal conclusion is that each of Telemundo, EstrellaTV and NBC Universo airs distinctly different types of programming. Each network develops, produces, or acquires distinct types of “target programming” that they believe will appeal to the specific audiences they wish to focus upon, and, based upon my sample week review, airs a very dissimilar programming mix.

29. Telemundo centers its important prime-time programming on both traditional and modern *telenovela* programming that will appeal to a broad cross-section of the Spanish-language audience in the U.S., spanning ethnic and cultural backgrounds. Well aware of Telemundo’s focus, EstrellaTV expressly and deliberately counter-programs away from the *telenovela*, developing and airing instead a very different mix of light and diverse variety and other entertainment programming designed to focus on a regional audience that is largely Mexican-oriented. In contrast with EstrellaTV, NBC Universo targets and airs a heavy slate of sports-related programming, celebrity reality, and edgy scripted programming designed to appeal to a broad but younger Spanish-language audience.

1. Telemundo’s Prime-time Slate

30. In M-F primetime, Telemundo airs *telenovelas* to the exclusion of every other genre of programming. As I noted earlier, the genre is defined in part by the fact that *telenovelas* air each weeknight. True to format, Telemundo airs *telenovelas* each weeknight in three hour-long blocks (8:00 to 9:00, 9:00 to 10:00, and 10:00 to 11:00). Telemundo also rebroadcasts *telenovelas* each day between 10:30 a.m. and 2:00 p.m. and midnight and 2:00 a.m.

31. In the fourth quarter of 2014, Telemundo broadcast four *telenovelas*. *Reina de Corazones* (“Queen of Hearts”) (M-F 8:00-9:00) is emblematic of the modern *telenovela*. It tells the story of Reina, a seamstress in love with Nicolás, a Las Vegas parking attendant. Nicolás had also been in love with the daughter of Víctor, a wealthy and dangerous trafficker in jewels. After the daughter kills herself, Víctor makes Reina believe that Nicolás is dead, and Reina, who had by then discovered that she was pregnant, agrees to marry Víctor. But Nicolás is alive—Víctor had him imprisoned—and, in revenge, Nicolás joins the Intelligence Service and makes it his mission to infiltrate Víctor’s trafficking operation.

32. *Reina* displays all of the key elements of the modern *telenovela*: the vertical love story at the core, romantic plot lines with overtones of crime, power, and vengeance, often in the context of drug dealing or the underworld, and nightly screening, among others.¹⁵

33. The other Telemundo *telenovelas* are similar hybrids of love and crime, often involving police, detectives, senior politicians, or even heads of state. *Los Miserables* (M-F 9:00-10:00 and rebroadcasts) is a *telenovela* centered around a character, Lucía, who is chased by the law but actually innocent. But true to type, the story has romance at its core: Lucía is in love with her pursuer, the chief detective for narcotics.¹⁶ Interestingly, at 10:00 pm, Telemundo shows a harder-edged *telenovela*, which I understand the network has promoted as a “super-series.” *Señora Acero* (“Woman of Steel”) (M-F 10:00-11:00 and rebroadcasts) is a *narconovela*, a subgenre of the *telenovela* with themes of drug trafficking. The heroine, Sara, discovers after her

¹⁵ <http://www.telemundo.com/novelas/reina-de-corazones>.

¹⁶ <http://www.telemundo.com/novelas/los-miserables>.