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Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-B204
Washington, D.C. 20554

**Re: Implementation of the Satellite Home Viewer Improvement Act of 1999:
Application of Network Nonduplication, Syndicated Exclusivity, and Sports
Blackout Rules to Satellite Retransmissions (CS Docket No. 00-2)**

Dear Ms. Salas:

Transmitted herewith on behalf of Grupo Televisa, S.A., a Mexican corporation, are an original and nine (9) copies of its comments on the Commission's Notice of Proposed Rulemaking in *Implementation of the Satellite Home Viewer Improvement Act of 1999: Application of Network Nonduplication, Syndicated Exclusivity, and Sports Blackout Rules to Satellite Retransmissions*, CS Docket No. 00-2 (released Jan. 7, 2000).

In connection with its representation of Grupo Televisa, S.A., Leventhal, Senter & Lerman P.L.L.C. has registered as a foreign agent under the Foreign Agents Registration Act.

Respectfully submitted,

Barbara K. Gardner

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BKG:msg
Enclosures

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ENCLOSURE

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CS Docket No. 00-2

In the Matter of)
)
 Implementation of the Satellite Home Viewer)
 Improvement Act of 1999:)
)
 Application of Network Nonduplication,)
 Syndicated Exclusivity, and Sports Blackout)
 Rules to Satellite Retransmissions)

To: The Commission

COMMENTS OF GRUPO TELEVISA, S.A.

Grupo Televisa, S.A. (“Televisa”), by its attorneys and pursuant to Section 1.415 of the Commission’s rules, hereby comments on the *Notice of Proposed Rulemaking* in the above-captioned proceeding.¹ Televisa, a Mexican corporation, has an interest in this proceeding by virtue of its ownership of Mexican-licensed television stations which, as Fox Television Network affiliates, serve U.S. markets in California and Texas. Televisa urges the Commission to apply the subject program exclusivity and sports blackout rules mandated by the Satellite Home Viewer Improvement Act of 1999 (the “SHVIA”) to its Fox-affiliated border stations, and any similarly-situated non-U.S. television broadcast licensees.

DISCUSSION

The following Mexican-licensed television broadcast stations owned by subsidiaries of Televisa serve U.S. markets as local affiliates of the Fox Television Network,

¹ *Application of Network Nonduplication, Syndicated Exclusivity, and Sports Blackout Rules to Satellite Retransmissions*, FCC 00-4 (rel. Jan. 7, 2000) (“Notice”).

broadcasting entirely in the English language:²

- Station XETV, which broadcasts from transmission facilities located in Tijuana, Baja California, Mexico, serves U.S. viewers in the San Diego, California market (DMA No. 25);
- Station XHFOX, which broadcasts from transmission facilities located in Reynosa-Matamoros, Tamaulipas, Mexico, serves U.S. viewers in the Harlingen-Weslaco-Brownsville-McAllen, Texas market (DMA No. 102); and
- Station XHFTX, which broadcasts from transmission facilities located in Nuevo Laredo, Tamaulipas, Mexico, serves U.S. viewers in the Laredo, Texas market (DMA No. 191).

Each station is the only Fox affiliate in its market.

In the *Notice*, the Commission inquires whether “stations based in foreign countries [are] affected by the SHVIA provisions requiring application of the cable exclusivity and sports blackout rules to satellite retransmissions[.]”³ Televisa submits that such stations *are* assuredly affected where, like XETV, XHFOX and XHFTX, they serve U.S. markets, broadcast in English, and are affiliated with U.S. television networks. Such stations not only compete with the affiliates of other U.S. networks for U.S. viewers in their markets, they also are harmed to the very same extent as the FCC licensees with whom they compete by the importation of superstation programming identical to that for which their contracts specify market-wide exclusive rights.

² Televisa is the world’s largest supplier of Spanish-language television programming and provides such programming to, among others, the Univision Network in the U.S.

³ *Notice*, FCC 00-4 at 4 para. 6.

In recognition of the fact that stations such as Televisa's Fox affiliates provide important network and other program service, including local programming, to U.S. viewers in the markets they serve, Congress provided in Section 1002 of the SHVIA that the statutory license for satellite transmissions of local broadcast stations' signals applies not only to Commission licensees, but also to "a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico if the station broadcasts primarily in the English language and is a network station as defined in section 119(d)(2)(A)."⁴ Thus, U.S. viewers who receive Fox and other English-language network programming over the air or by cable from Mexican-licensed television stations serving their local markets may now receive this programming from satellite providers as well, furthering the SHVIA's twin goals of maximizing choices for video consumers and bolstering DBS' ability to compete with cable.

Similarly, the Commission should extend its new satellite program exclusivity and sports blackout rules to Mexican and Canadian licensees who serve U.S. markets with English-language programming as the affiliates of U.S. television networks. Under their network affiliation agreements, Televisa's three Fox affiliates enjoy the same nonduplication rights as Fox's U.S.-licensed affiliates. Similarly, XETV, XHFOX and XHFTX license syndicated programming from U.S. distributors of such programming under the same standard contract terms and conditions with respect to exclusivity as U.S. licensees enjoy. To compete effectively within their markets and thus be enabled to continue to serve their U.S. audiences, these stations

⁴ 17 U.S.C. § 122(a), (j)(5)(B) (as enacted by § 1002(a) of the SHVIA).

should enjoy the same exclusivity rights vis-a-vis satellite carriers' superstation transmissions as the U.S. licensees with whom they compete.

Importantly as well, Televisa's proposal furthers the North American Free Trade Agreement's objective of putting Mexican affiliates of U.S. television networks on an even footing with their American counterparts (*see* NAFTA, Annex VI). Ensuring that the few foreign-licensed stations that are affiliated with U.S. English-language networks are treated identically with U.S. licensees vis-a-vis DBS providers in the American markets they serve implements the important goal of Annex VI, namely, that U.S. stations should not be favored over Mexican broadcasters in regulatory matters involving affiliations with U.S. programmers.

CONCLUSION

For the foregoing reasons, the FCC should apply its forthcoming satellite network nonduplication, syndicated exclusivity, and sports blackout rules to foreign-licensed television stations that serve U.S. markets, broadcast in English and are affiliated with a U.S. television network.

Respectfully submitted,

GRUPO TELEVISA, S.A.

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