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June 11, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Applications for Transfer of Control of Hispanic Broadcasting Corp., and Certain Subsidiaries, Licensees of KGBT (AM, Harlingen, Texas et al. (Docket No. MB 02-235, FCC File Nos. BTC-20020723ABL, et al.)

Dear Ms. Dortch:

Spanish Broadcasting System, Inc. ("SBS") has submitted several filings for the record of this proceeding demonstrating that Spanish-language media does not compete with English-language media. In other words, English-language and Spanish-language broadcasting constitute separate markets for competition and diversity purposes. The proposed Univision/HBC merger threatens to create substantial market power in numerous geographic markets for Spanish-language broadcasting to the detriment of advertisers, consumers, competition, and diversity. This letter submits data demonstrating the severity of that threat in the ten metropolitan areas with the largest Hispanic populations.

Attached hereto is a chart for each of the top ten Spanish-language broadcast markets displaying the market share of each participant in terms of combined television and radio advertising revenues for 2002.¹ In seven of the top ten markets, the combined entity's (Univision + HBC) post-

¹ The charts were prepared using the following methodology: The advertising data for both broadcast radio and broadcast television were obtained from BIA, Inc., through its *Media Access Pro* software (current as of June 5, 2003). BIA provides station-level revenue and ownership data for more than 13,000 radio stations and nearly 2,000 commercial television stations in the United States. Revenues from BIA are estimated using data from its proprietary survey of station managers and owners. For radio stations, BIA reports information on station format. These data were supplemented with information from the *2002 Television and Cable*

merger market share will equal or exceed 60%, and in two of the top ten markets the combined entity's market share will exceed 70%. Indeed, in San Antonio, the combined entity will control a striking 80% of the market. Only in Brownsville/McAllen (13%) and New York (48%) will the combined entity have a market share below 50%. When Entravision's market share is included (Univision + HBC + Entravision), the combined entity's market share ranges from 48% in New York to 84% in Phoenix. For convenience, the table below summarizes the distribution of revenue shares for the combined entity, with and without Entravision. As illustrated by the data in this table, the combined entity would account for a large majority of advertising revenues in 8 (or 9) of the top ten markets.

Cumulative Distribution of 2002 Broadcast Advertising Revenue Shares*

SHARE	UNIVISION + HBC	UNIVISION + HBC + ENTRAVISION
>80%		1
>70%	2	5
≥60%	7	7
>50%	8	9
>40%	9	10

* Numbers may differ from those obtained from the charts due to rounding.

These high market shares—including above 70% in several markets—demonstrate that the merger will enable the new Univision/HBC to exercise substantial market or monopoly power to the detriment of both Spanish-speaking consumers and advertisers who seek to reach that audience. For “a share above 70% is usually strong evidence of monopoly power” and “a share between 50% and 70% can occasionally show monopoly power.” *Broadway Delivery Corp. v. United Parcel Service of Am., Inc.*, 651 F.2d 122, 129 (2nd Cir. 1981). Even a share below 50% can support a finding of monopoly power when other indicia of such power—such as the high entry barriers present here—exist. *See id.* The consequences of a monopoly in Spanish-language broadcasting is not only higher rates for

Factbook, 2002 U.S. Hispanic Market (a publication of Strategy Research Corporation), and various internet websites, including www.100000watts.com.

First, all of the radio and television stations broadcasting to the ten metropolitan areas with the largest Hispanic populations were identified. Using information from BIA as well as internet-based research, each station's language format was determined. A radio station was classified as a Spanish-language station if a portion of the BIA format description was Spanish (BIA reports the current format, which may not necessarily correspond to the station's format in 2002, although we believe relevant changes, if any, to be minimal) or, alternatively, if it could be determined that a portion of the station's programming was in Spanish. Similarly, for television stations, a station was classified as Spanish-language if a portion of the station's programming was in Spanish. Because all Univision television stations broadcast in Spanish, this decision rule provides a conservative estimate of Univision's revenue share.

advertisers, but also a substantial loss in diversity of voices. Moreover, where, as here, the combined entity will control over 40% in all or virtually all of the major relevant markets, diminished economic performance is likely. *See FTC v. Swedish Match*, 131 F. Supp. 2d 151, 166 (D.D.C. 2000) (“Without attempting to specify the smallest market share which would still be considered to threaten undue concentration, we are clear that 30% presents a threat.” *quoting United States v. Philadelphia National Bank*, 374 U.S. 321, 364 (1963)). In sum, the market shares shown here present a real risk of anticompetitive harm to Spanish-language advertisers, as well as a critical loss of diversity to Spanish-speaking Americans in these markets.

Moreover, the merger threatens both competition and diversity whether or not Spanish-language television and radio compete in the same market. The reason is that the merger gives Univision/HBC the power to exclude competition even if Spanish-language TV and radio belong in different markets. First, the Univision/HBC merger would raise already high entry barriers into Spanish-language radio. Advertising on Spanish-language TV is important to a Spanish-language radio station’s ability to obtain significant audience. Indeed, several of SBS’s stations only succeeded because of risky and expensive television advertising campaigns. However, after its acquisition of HBC, Univision—which dominates Spanish-language television—will have an incentive to refuse to deal with, or discriminate against, Spanish-language radio competitors (including SBS) who seek to advertise through Univision (and other properties) in order to advantage HBC. Second, after the merger, the combined entity will have the power to insist that Spanish-language advertisers who wish to advertise through both radio and television purchase time from both Univision and HBC rather than from the combined entity’s rivals. Such difficult-to-detect and subtle tying arrangements or refusals to deal—realistic possibilities here—impair competition. *See, e.g., Lorain Journal Co. v. U.S.*, 342 U.S. 143 (1951). The resulting harm to competitors, including SBS, that is sure to follow will not only harm advertisers, but also will impair diversity.

To meet its obligations under the Communications Act, the FCC must undertake a detailed analysis of diversity and competition specific to the Spanish-language media markets implicated by

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this merger. In addition to the materials submitted last week and filed today, SBS intends to file shortly with the Commission further information demonstrating the severity of the threat to competition and diversity presented by the proposed merger.

Respectfully submitted,

/s/ Philip L. Verveer

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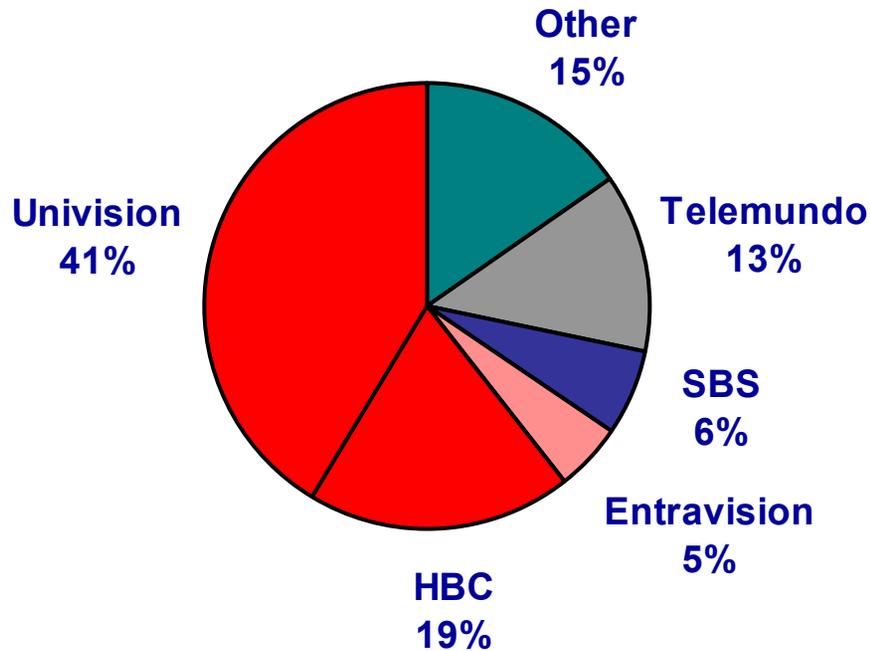
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Spanish-Language Broadcast Advertising Revenues, 2002

Los Angeles: Hispanic Population of 7.0 million

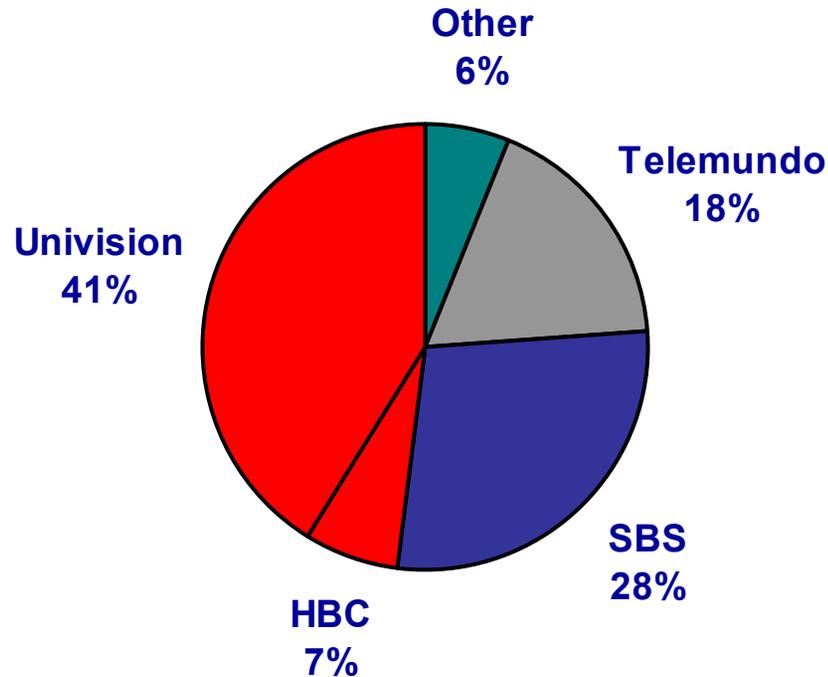


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

New York: Hispanic Population of 4.0 million

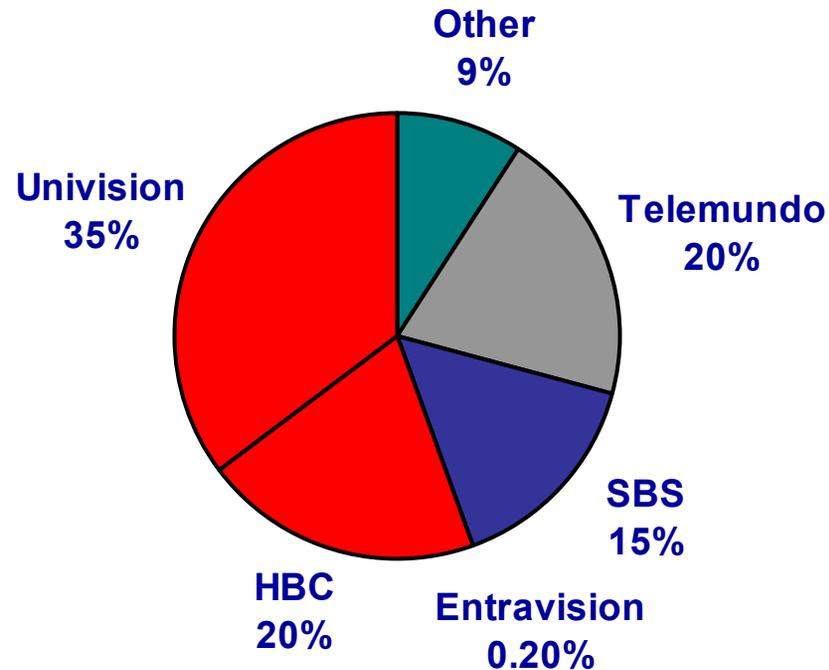


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

Miami: Hispanic Population of 1.7 million

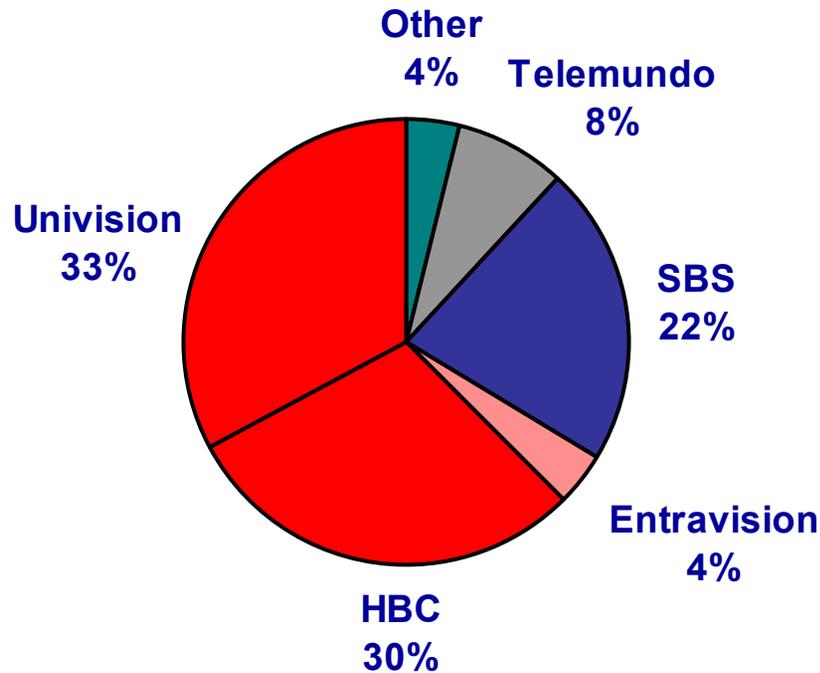


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

Chicago: Hispanic Population of 1.6 million

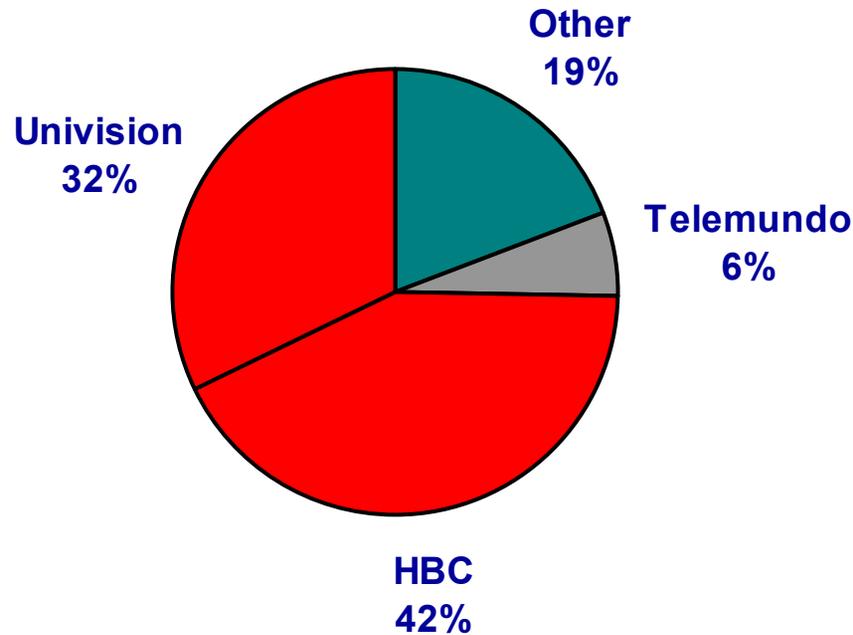


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

Houston: Hispanic Population of 1.6 million

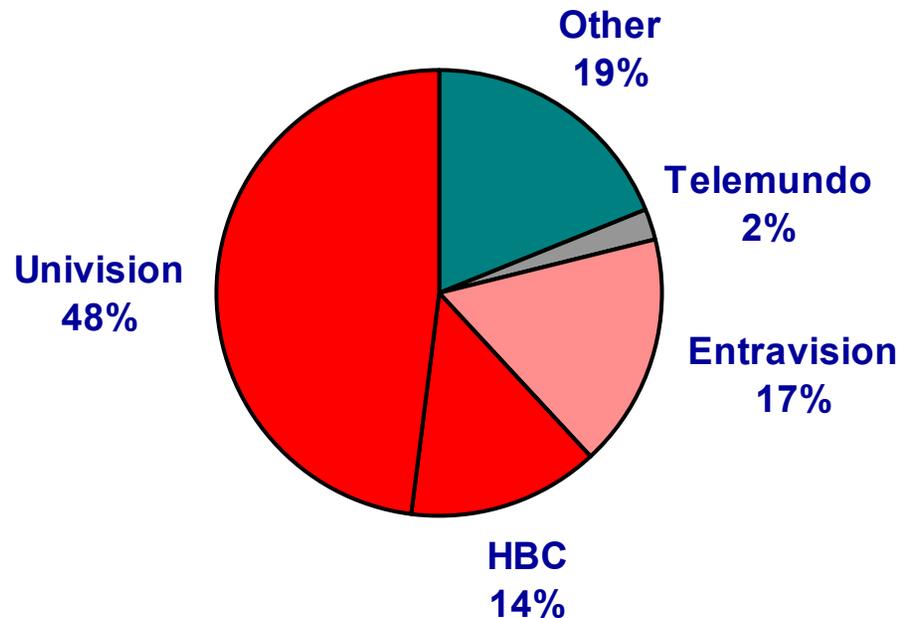


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

San Francisco/San Jose: Hispanic Population of 1.4 million

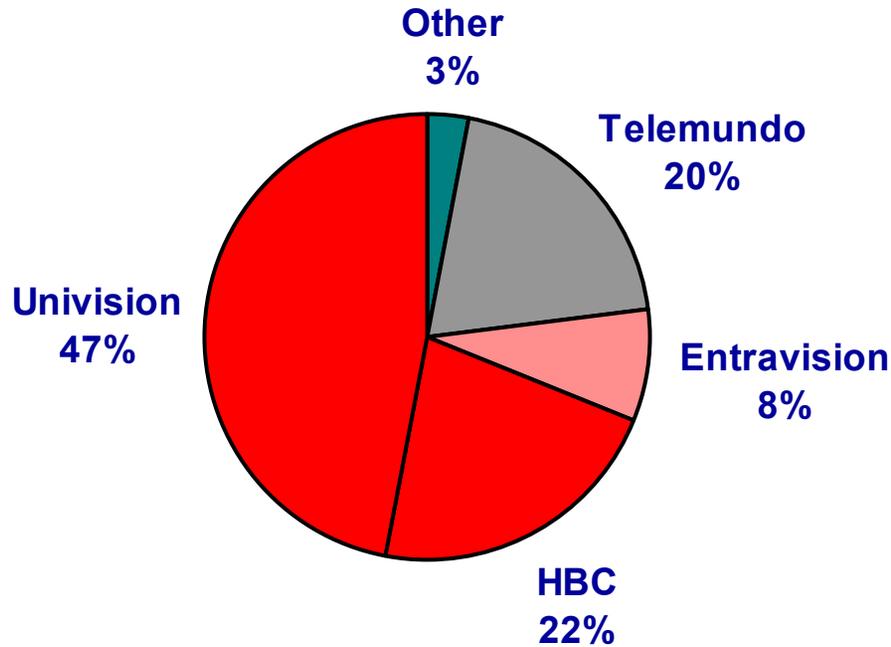


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

Dallas/Ft. Worth: Hispanic Population of 1.3 million

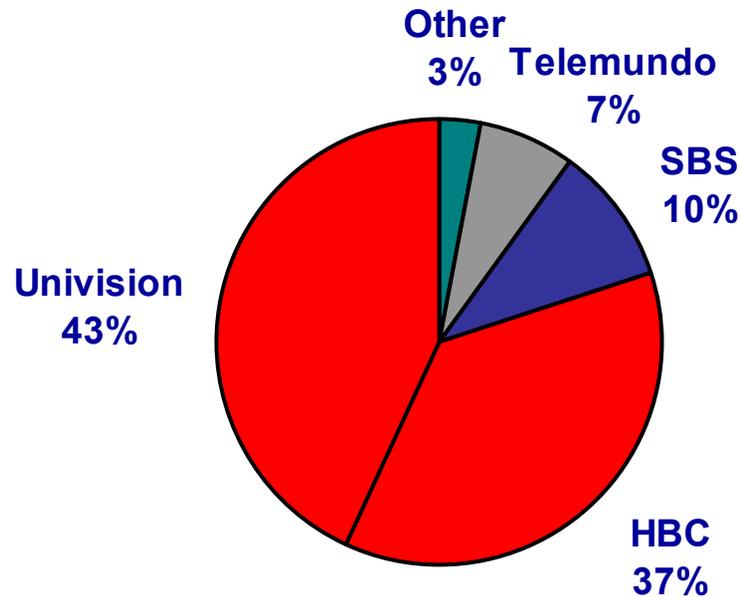


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

San Antonio: Hispanic Population of 1.2 million

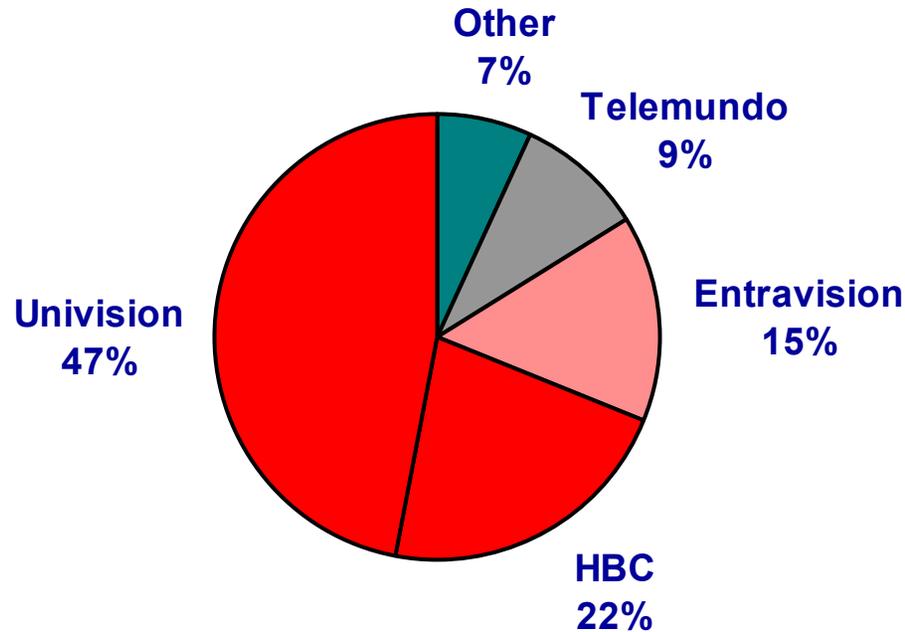


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

Phoenix: Hispanic Population of 1.0 million

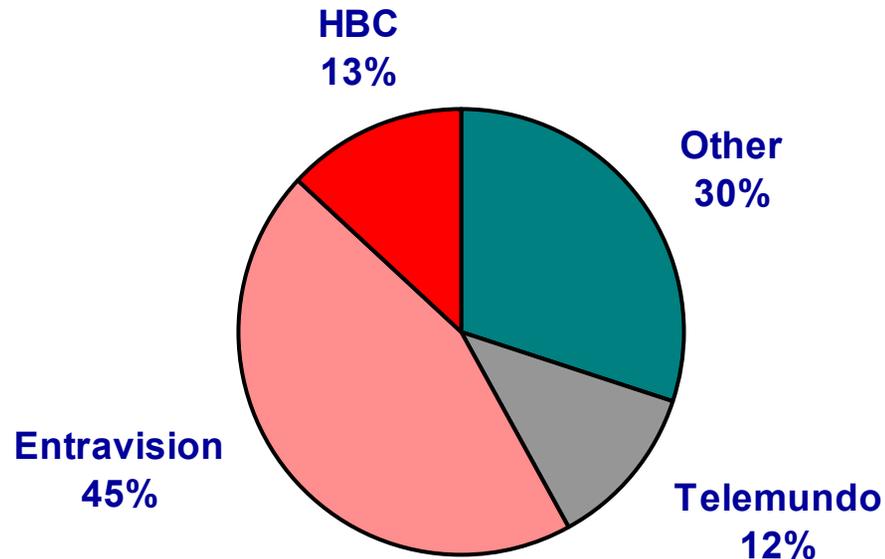


Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.

Spanish-Language Broadcast Advertising Revenues, 2002

Brownsville/McAllen: Hispanic Population of 1.0 million



Notes: Advertising revenue-based satellite program services that also offer Spanish-language programming include services such as Galavision Cable Network, MTV Latin America, and Viva Television Network.

Sources: 2002 BIA, Inc.; 2002 *Television and Cable Factbook*; 2002 *U.S. Hispanic Market*, Strategy Research Corporation.