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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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July 10, 2003

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Federal Communications Commission
Office of the Secretary

Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W. Room 8-B201
Washington, D.C. 20554

MB Dec 11 2003 No 02-235

Dear Chairman Powell:

The Federal Communications Commission is reviewing an application for consent to a merger between Univision Communications, Inc (hereinafter "Univision") and Hispanic Broadcasting Corporation (hereinafter "HBC"). It is my understanding that the application complies with all FCC rules, requests no waivers, and seeks no special consideration.

I am also aware of the fact that, on March 26, 2003, the Justice Department approved the merger between Univision and HBC, subject to conditions to which the parties have agreed. With these conditions, the Justice Department concluded that the transaction does not pose a threat to competition among advertisers that rely on Spanish language radio to reach their targeted audience.

Since then, however, I understand that several Members of Congress have written to you and other Commissioners opposing the merger application, claiming that approval would be contrary to the public interest by reducing competition and restricting the communication of diverse viewpoints in the Hispanic community. I do not agree with these claims, and I urge you to approve the merger application as consistent with the public interest.

The proposed merger will allow Univision to compete against much larger broadcasters, such as GE/NBC/Telemundo, Viacom/CBS, and Disney/ABC, promote the growth of Spanish-language media programming, and ultimately attract new capital to the industry. The fact that Univision and HBC provide Spanish-language programming is not a basis, as some opponents to the merger have suggested, for rejecting the application. In fact, the Supreme Court has upheld the FCC's policy under the public interest standard of avoiding review of programming formats when making licensing decisions. See *WNCN Listeners Guild v. FCC*, 450 U.S. 582 (1981); see also, *Buckley Broadcasting Corporation of California*, 9 FCC Rcd 1930 at Paragraph 1 Note 2 ("[t]he

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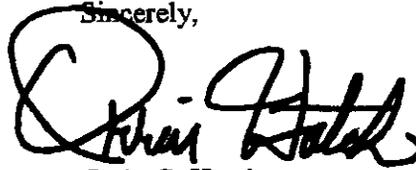
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Commission does not regulate or scrutinize programming formats, nor does it take programming formats into consideration when making licensing decisions" (citations omitted)).

Several Members of Congress have written letters opposing the merger application and urging the FCC to modify its rules to designate Spanish formatted stations as a separate "market." Creating a separate Hispanic market marginalizes the Hispanic community while creating a separate class of broadcast stations with a different set of rules based solely on program content. Such a result is unfair and contrary to the law.

By raising this issue at the FCC at such a late date and after the Justice Department's thorough review and approval of the merger, I am at a loss to understand why such claims are being made now. If communicating these concerns to the FCC is part of an attempt to inject partisan politics into the FCC regulatory review of a proposed merger, I would urge the FCC to reject such arguments, and act consistent with its independent regulatory mission by promptly approving the merger proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Orrin Hatch", written in a cursive style.

Orrin G. Hatch
Chairman