

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Media Bureau Seeks Comment on Over-the-Air)	MB Docket No. 04-210
Broadcast Television Viewers)	
)	

To: The Commission

COMMENTS OF UNIVISION COMMUNICATIONS INC.

Scott R. Flick
Christopher J. Sadowski

Its Attorneys

Shaw Pittman LLP
2300 N Street, NW
Washington, D.C. 20037
(202) 663-8000

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SUMMARY

Univision Communications Inc. (“Univision”) applauds the Commission’s efforts to carefully examine the impact of the DTV transition upon over-the-air viewers. In its Comments, Univision provides the Commission with a wealth of data regarding over-the-air television viewers, and Hispanic over-the-air television viewers in particular. Among the facts discussed are the following:

- 44 million Americans rely *exclusively* on over-the-air broadcast television and a far larger number of Americans rely partially on over-the-air reception.
- 33% of Hispanic viewers rely *exclusively* on over-the-air broadcast television and a far larger number relies partially on over-the-air reception.
- In numerous markets, the percentage of over-the-air viewers is considerably higher; for example, in Los Angeles, the largest Hispanic market, 40% of Hispanic households rely *exclusively* on over-the-air broadcast signals, and 67% watch at least one over-the-air set in their home.
- Since 1999, the total number of Hispanic viewers relying exclusively on over-the-air reception has *increased* by over 7%.
- Not a single U.S. Hispanic household is currently equipped to view DTV signals over-the-air, according to Nielsen’s nationwide sample of Hispanic households.

These and many other facts discussed herein lead to three basic conclusions. First, the digital transition must be allowed to occur on a natural and rational timetable dictated by the public’s actual adoption of DTV technology, rather than by the desire for spectrum auction revenues and speculative wireless technologies. Second, premature termination of analog broadcasting will severely harm tens of millions of Americans, and will be particularly harmful to Hispanic viewers. Third, current proposals to artificially accelerate the transition on paper but not in the real world are seriously flawed. Specifically, defining cable subscribers who receive a dumbed-down, downconverted signal as receiving a digital signal will delay the ultimate transition to digital by substantially eliminating any incentive for cable subscribers to

purchase a digital television set. As a consequence, the lack of consumer demand for DTV sets will eliminate the economies of scale that were predicted to drive down the price and increase the availability of digital television sets to a level that would allow all consumers to participate in the DTV transition.

Finally, Univision notes that, to date, proposals to subsidize digital to analog converters have been woefully superficial. As converter distribution undoubtedly will be essential to successfully conclude any digital transition, Univision suggests several critical elements for such an effort that are necessary to promote a successful DTV transition for all Americans.

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Univision Communications Inc. (“Univision”), by its counsel, hereby submits its Comments in the above-captioned proceeding in response to the Media Bureau’s request for comment on the effect of terminating analog broadcasting at the end of the digital transition. Public Notice, *Media Bureau Seeks Comment on Over-the-Air Broadcast Television Viewers*, 19 FCC Rcd 9468 (MB 2004) (“Public Notice”). While the Public Notice recognizes that the government’s coffers may benefit from the reclamation and auction of analog spectrum, and broadcasters themselves will benefit from reduced operating costs, the public in general and the over-the-air viewing public in particular will be the losers in any effort to terminate analog broadcasts prematurely.

I. EFFORTS TO EXPEDITE THE DTV TRANSITION ONLY ON PAPER ARE COUNTERPRODUCTIVE AND HARMFUL TO THE PUBLIC

While Univision looks forward to having the DTV transition behind it, it is not so anxious to do so as to sacrifice the best interests of its audience to get there more quickly. As summed up in Yogi Berra’s famous statement “it ain’t over till it’s over,” the DTV transition will be completed on the public’s timetable, and while Univision urges the Commission to take all possible action to encourage the sale and use of DTV sets, the public will dictate when analog

broadcasts have outlived their usefulness. In this regard, recent proposals to terminate analog broadcasts prematurely by declaring cable television subscribers to be capable of viewing downconverted DTV signals (and thereby qualifying as DTV-capable for purposes of the 85% DTV penetration threshold) are particularly worrisome. Eliminating the incentive for cable subscribers to purchase DTV sets by “dumbing down” digital broadcasts to analog quality is short-sighted, and will increase the duration and pain of the public’s actual transition to digital television. More importantly, by removing cable subscribers from the pool of potential DTV buyers, the Commission would destroy the economies of scale that will ultimately make DTV an economically viable option for all consumers, particularly over-the-air viewers who will not even get the benefit of the dumbed-down cable picture but who will still lose access to their local broadcast stations.

By forcing over-the-air viewers to be the digital pioneers while cable viewers remain oblivious to the digital transition, the Commission places over-the-air viewers in an untenable position. The negative impact on the 44 million Americans that rely *exclusively* on over-the-air broadcast television and the millions more that rely at least partially on over-the-air reception should be assessed with great care.¹ These individuals’ health and lives will be jeopardized by the loss of emergency information, severe weather alerts, and breaking news that local broadcast television, and often only local broadcast television, provides.² In addition, these individuals

¹ Nielsen Media Research, NTI, 2004.

² See, e.g., *Review of the Commission’s Regulations Governing Television Broadcasting*, Memorandum Opinion and Second Order on Reconsideration, 16 FCC Rcd 1067 (2001) at ¶ 22 (“Broadcast TV has the power to influence and persuade unmatched by other media. In terms of our diversity goal, we emphasize that TV is the dominant source of news and information for Americans, and in the world of television, broadcast TV stations are the dominant source of local news and information.”).

will lose access to the single most significant cultural touchstone in the United States and millions of children will lose access to educational programming.

Moreover, the Commission and Congress have recently been engaged in a discussion on the importance of ensuring that local broadcast stations continue to serve as the public's conduit for election and candidate information.³ However, the loss of access to local stations' signals created by premature termination of analog operations will bar many over-the-air viewers from participating in the nation's democracy to the same extent that other citizens enjoy.

Univision strongly believes that neither its own interest in reducing short term operating costs, nor the government's interest in obtaining short term auction revenue, can possibly justify the long-term cost that would be imposed on the public in a misguided effort to expedite the DTV transition only on paper, and not in America's living rooms. Such an approach is neither an acceptable sacrifice nor an unavoidable consequence of the DTV transition. Accordingly, Univision urges the Commission and Congress to work to expedite a real transition to DTV, and not just declare victory, go home, and leave millions of Americans behind, stranded in a no man's land of the digital battlefield.

II. OVER-THE-AIR ANALOG VIEWING REMAINS SUBSTANTIAL

A. The Reasons Many Viewers Prefer Over-the-Air Broadcast Television for Their Programming Needs Are Simple and Unchanging

As a broadcaster, and more particularly, as a programmer that has chosen to expand its service to the public through over-the-air broadcasting rather than to join the rush of

³ Chairman Powell recently recognized that broadcast television is "the primary source of campaign and election information for the American public." Letter from Michael K. Powell, Chairman, Federal Communications Commission, et al. to News Corp. President Peter Chernin, et al. (June 16, 2004) as quoted in Bill McConnell, *D.C. Wants More Campaign Coverage*, BROADCASTING & CABLE (June 16, 2004) at <http://www.broadcastingcable.com/article/CA426962?display=Search+Results&text=%22primary+source+of+campaign%22> (last visited Aug. 5, 2004).

programmers abandoning over-the-air viewers for the twin revenue streams of pay television,⁴ Univision commends the Commission for instituting this important inquiry. Under the best of circumstances, the termination of analog broadcasts in the United States will be painful for many Americans. Terminating that service any earlier than absolutely necessary, or without taking the steps necessary to minimize disruption, threatens those individuals and families least able to protect themselves, and harms the programmers on which these viewers rely.

In this regard, Univision must admit its disappointment in the Public Notice's assumption that over-the-air viewers are a rare and dwindling species or that their use of over-the-air broadcast signals is difficult to understand. *See* Public Notice, 19 FCC Rcd 9468 ("First, we seek comment on the identity of those consumers that rely on over-the-air television broadcasting and why they do not subscribe to a pay television service."). To understand for purposes of the DTV transition the resilience of over-the-air viewing does not require great insight. First and foremost, broadcasting has no serious technological challengers when it comes to the ease of receiving programming or the omnipresence of a viewable signal. This is evidenced by the fact that many cable households, even those that are not charged for each cable connection operating in their house, still operate at least one television set that relies solely on over-the-air "rabbit ears" reception. In a world where every other communications technology is struggling to break free of a wired infrastructure and its inherent limitations, broadcast television is light years ahead in serving a public that cannot afford to be tethered to a wire.

Second, broadcasters have remained committed to providing programming to viewers for free in a world where every other communications technology charges consumers for access. The attractiveness of broadcast service is increased by the fact that every other communications

⁴ In 2002, Univision launched its Telefutera broadcast network, which delivers Spanish language programming 24 hours a day over 62 full and low power television stations.

technology charges a monthly fee even if consumers do not use the service that particular month. In addition, beyond the monthly fee, service is frequently metered to ensure that the provider is able to extract yet additional payments from heavy users. It is not hard to see why many viewers prefer to use over-the-air broadcasting as their video service of choice. If a number of local restaurants are serving food for free, why would you pay to eat elsewhere, particularly if the other restaurants charge you just for walking through the door, whether you actually consume any of their offerings or not? Moreover, these other “restaurants” frequently require you to make a long term commitment to them before they will even serve you, preventing you from walking away if you discover that their food is awful (or overpriced) after the first visit.

Third, it would truly be ironic if the FCC and Congress, after complaining bitterly for over a decade about the ever rising cost of cable television service, the poor customer service offered by many cable systems, and the monopolistic characteristics of cable television service pricing, implemented a DTV transition plan that forces over-the-air viewers to ignore these problems and sign up for cable service if they wish to preserve access to their local broadcast station programming on all of their existing analog television sets.

Fourth, broadcasters, by both tradition and regulation, are the only programmers whose mission is to serve the community, and not to serve just those individuals who have the most to spend on pay programming. As a result, over-the-air broadcast programming has local content and public interest programming, including news, weather, children’s educational programming, community information regarding school closings and local events, as well as emergency information regarding floods, hurricanes, tornadoes, toxic spills, and every other variety of local emergency. What broadcast programming *does not* have is indecent content. Once again, it is

not hard to see why so many viewers choose to receive their programming over-the-air, not as a matter of necessity, but as a matter of choice.

That being the case, it also goes without saying that there is indeed an additional subset of viewers who rely on over-the-air reception as a matter of necessity. These are individuals and families who either live in a location where cable or satellite reception is not practical, or who simply cannot afford one more monthly bill,⁵ particularly when over-the-air video programming is available for free, 24 hours a day, from their local broadcast stations.

Regardless of the reasons behind their choice, over-the-air viewers are not, as the Public Notice seems to suggest, a dying breed. Nor would the public interest be served by any governmental action which threatens the “lifeline” service to these individuals that analog broadcasting currently provides.

B. The Number of Viewers Using Over-the-Air Analog Reception Is Immense

For the reasons discussed above, as well as many others, Nielsen data indicates that over 44 million Americans continue to rely *exclusively* on over-the-air reception for all of their video programming.⁶ However, this Nielsen figure understates the total reliance on over-the-air reception of local broadcast programming, since it does not count the substantial number of satellite households that continue to obtain the signals of their local stations exclusively over-the-air, nor does it count over-the-air viewing in non-Nielsen settings, such as recreational vehicles whose owners use over-the-air reception to watch local stations in their travels, or tailgaters watching a pre-game show in the stadium parking lot.

⁵ The fact that cable television is extremely expensive is a matter of record with the Commission. *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Tenth Annual Report, 19 FCC Rcd 1606 (2004) at ¶ 10.

⁶ Nielsen Media Research, NTI, 2004.

In addition, the 44 million figure represents only those viewers who rely *solely* on over-the-air reception for their video programming, and does not count the many additional cable and satellite households where second, third, or fourth sets are not connected to the MVPD and therefore receive programming only over-the-air.

Given that the Commission's own statistics indicate that since 1998, only 700,000 DTV tuners or sets with a built-in tuner have been sold,⁷ it is apparent that the vast majority of over-the-air viewers is watching exclusively analog signals. In 2003, 24.7 million analog-only sets were sold compared to approximately 250,000 sets that actually included a digital tuner.⁸ In other words, almost 99% of television sets sold *last year* cannot receive a digital broadcast signal.

In short, the population of over-the-air viewers, and more importantly, over-the-air *analog* viewers, is very large, and any decision to imprudently terminate analog broadcasting would cause widespread harm to a large segment of the public.

⁷ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Tenth Annual Report*, 19 FCC Rcd 1606 (2004) at ¶ 103. As a result of the substantial improvements manufacturers have made with each new generation of DTV tuner, it is likely that a good number of the DTV tuners that have been sold were purchased to replace already obsolete ones, making the number of DTV tuners actually in use significantly less than the total number that has been sold. Also, not every viewer that owns a set with a built in DTV tuner is necessarily using it to receive over-the-air DTV signals. As a result, it is safe to say that the actual number of households with over-the-air DTV reception capabilities is less than 700,000 (out of over 106 million television households nationwide).

⁸ Written Statement of W. Kenneth Ferree, Chief, Media Bureau, Federal Communications Commission, On Advancing the DTV Transition: An Examination of the FCC Media Bureau Proposal, Before the Subcommittee on Telecommunications and the Internet, U.S. House of Representatives (June 2, 2004); National Association of Broadcasters, Legislative Issues Paper, *Digital Television (DTV) Conversion* (Mar. 2004) at 9.

III. HISPANIC VIEWERS RELY HEAVILY ON ANALOG OVER-THE-AIR RECEPTION

A. Current Digital Tuner Penetration in Hispanic Households Is Zero

In examining the demographics, Nielsen data indicates that Hispanics represent a disproportionately high percentage of over-the-air viewers. In fact, nationwide, 33% of Hispanic households receive their programming solely over-the-air,⁹ with many more Hispanic households utilizing over-the-air reception to receive their local station signals (in satellite homes) or having only some of their television sets connected to cable/satellite, with the remaining sets relying on over-the-air reception.

It is therefore fairly easy to assess the impact of terminating analog broadcasts upon Hispanic viewers. Nielsen data indicates that, based upon its current sample of Nielsen households nationwide, *no U.S. Hispanic household is currently equipped to view DTV signals over-the-air.*¹⁰ While Univision, having spent immense sums to build out its DTV facilities, certainly hopes that there are at least some Hispanic households equipped for over-the-air DTV reception that are not showing up in the Nielsen sample, the Nielsen data makes clear that the number of such households is statistically insignificant. This leads to two conclusions. First, for purposes of this proceeding, at least in Hispanic households, total over-the-air viewing is synonymous with *analog* over-the-air viewing. Second, pretending that the DTV transition is well underway in Hispanic households and that the termination of analog broadcasts is viable anytime in the near future is wildly unrealistic.

⁹ Nielsen Media Research, NHTI, 2004.

¹⁰ Nielsen Media Research, Custom Research, 2004.

B. Over the Past Five Years, the Total Number of Hispanic Viewers Relying Solely on Over-the-Air Reception Has *Increased* Significantly

Another important piece of Nielsen data is that between the 1999-2000 television season and the 2003-2004 television season, **the number of Hispanics (Ages 2+) relying solely on over-the-air reception actually *increased* by over 7%.**¹¹ Contrary to the premise of the Public Notice, Hispanic over-the-air viewers, and more specifically, Hispanic *analog* over-the-air viewers, are a vibrant and growing population.

Nationwide, well over twelve million Hispanic viewers rely exclusively on over-the-air analog broadcasts, and the consequences of terminating those broadcasts before these viewers are capable of, and comfortable with, digital over-the-air reception, would be devastating.¹² As bad as the situation would be nationwide, the problem would be exacerbated in certain markets where the percentage of Hispanic over-the-air viewing is particularly high. For example:

- In Los Angeles, the largest Hispanic market, **40%** of Hispanic households rely *solely* on over-the-air broadcast signals, and **67%** watch at least one over-the-air set in their home.
- In Houston, the 4th largest Hispanic market, **44%** of Hispanic households rely *solely* on over-the-air broadcast signals, and **50%** watch at least one over-the-air set in their home.
- In Dallas-Fort Worth, the 6th largest Hispanic market, **46%** of Hispanic households rely *solely* on over-the-air broadcast signals, and **57%** watch at least one over-the-air set in their home.

¹¹ Nielsen Media Research, NHTI, 1999-2004.

¹² In addition, because Hispanic households are on average significantly larger than non-Hispanic households (3.6 versus 2.4 persons per household), when the millions of Hispanic cable and satellite households that also use one or more over-the-air television sets are prevented from using their over-the-air analog television sets any longer, it will not just be an inconvenience, but will in fact prevent some members of these households from accessing their preferred programming.

- In Phoenix, the 9th largest Hispanic market, **45%** of Hispanic households rely *solely* on over-the-air broadcast signals, and over **50%** watch at least one over-the-air set in their home.
- In Fresno, the 15th largest Hispanic market, **48%** of Hispanic households rely *solely* on over-the-air broadcast signals, and **58%** watch at least one over-the-air set in their home.¹³

These market by market numbers indicate that a “one size fits all” approach to terminating analog broadcasts would be disproportionately harmful to Hispanic viewers, and could be disastrous in a number of markets where over-the-air reception continues to be the dominant method for receiving video programming. A simple nationwide shutdown of analog broadcasts would isolate the twelve million Hispanic viewers that rely solely on over-the-air broadcast signals, while providing little if any public benefit. Even assuming the eventual development of more cost-effective DTV receivers and the economies of scale that a true nationwide conversion to DTV should generate, it is unrealistic to believe that these analog over-the-air viewers will disappear anytime in the foreseeable future.

Aggravating this situation is the fact that many who encourage a Berlin-style “tough love” approach to rapidly terminating analog broadcasting appear to have the mistaken assumption that over-the-air viewers will have no choice but to convert to digital when analog broadcasting ceases. Certainly among Hispanic viewers that is not the case. Nearly fourteen percent of all U.S. Hispanic households are located in markets touching the Mexican border, including such markets as San Diego, San Antonio, and Albuquerque.¹⁴ In many of these

¹³ Nielsen Media Research. NHSI, February 2004.

¹⁴ Nielsen Media Research. NSI, February 2004.

markets, Mexican television stations are already heavily viewed. For example, in the Laredo and Harlingen markets, nearly half of all prime time viewing goes to Mexican stations.¹⁵ In San Diego and a number of other border markets, Mexican stations receive between 27% and 32% of all prime time viewing.¹⁶ These Mexican stations will be broadcasting in analog for many years to come, and the net result of terminating U.S. analog broadcasts will be to drive even more Hispanic viewers to Mexican stations for their news, information, and entertainment—a result flatly contrary to the public interest. Far from forcing Hispanic viewers to acquire DTV tuners or converters (whether the equipment is available for free or not), terminating analog broadcasts would merely push these viewers into the arms of Mexican broadcasters. Such a result would not be beneficial to the U.S. Hispanic community, nor to the broadcasters that serve them.

IV. WHILE DTV EQUIPMENT SUBSIDIZATION CAN HELP TO REDUCE DISRUPTION AND DISLOCATION FROM A PREMATURE DTV TRANSITION, IT CANNOT ALONE PREVENT IT

The Public Notice requests comment as to how best to minimize the harm to over-the-air viewers that would be caused by termination of analog broadcasting. As discussed above, it will be difficult to avoid severe disruption until DTV technology has had a better opportunity to penetrate the market and create the economies of scale that will make it more accessible, both financially and mentally, to over-the-air viewers. Regardless of the time frame, however, Univision supports the idea of diverting some of the “profits” from the eventual auction of the excess broadcast spectrum in order to meet the requirement that, in the words of U.S.

Representative Rick Boucher, “[o]wners of analog sets must be held completely harmless.”¹⁷

¹⁵ Nielsen Media Research. NSI, February 2004, A18-49, Mon-Sun Primetime.

¹⁶ *Id.*

¹⁷ Bill McConnell, *Barton to Broadcasters: Speed Up the Switch*, BROADCASTING & CABLE (Aug. 2, 2004) at 13. At least one member of Congress, U.S. Representative Joe Barton, has suggested that he would be prepared to spend \$1 billion dollars on such an effort. *Id.* While

Having said that, Univision recognizes that there are significant practical limitations on how much free DTV tuners or converters can be counted upon to pave the way for termination of analog service. First, it is far from certain that such devices will be available to the government at low cost anytime in the foreseeable future, or that a sufficient number could be manufactured in a reasonable time to meet the needs of the over 44 million Americans currently relying solely on over-the-air reception, much less those additional satellite viewers that rely exclusively on over-the-air reception for their local broadcast signals, or those cable and satellite viewers that still use some over-the-air sets.

Second, even setting aside the critical issues of converter cost and availability, universal distribution of such devices to everyone in need of them would be nearly impossible to achieve for a number of reasons. As an initial point, the very process of distributing such devices would entail significant additional costs, as would the process of determining eligibility. Furthermore, given cable and satellite customer “churn,” many consumers who did not initially qualify for free converters may need them at a later date. For example, someone who is laid off of their job and can no longer afford cable service, much less to replace their television, would be out of luck if they lost their job and cable service a week after the great converter distribution. Similarly, many consumers who work one or more jobs may be unable to get away to pick up a converter, and many more will be unaware of the pending termination of analog broadcasting no matter

Univision applauds Congressman Barton’s recognition of the fact that over-the-air viewers should not be left behind, the billion dollar figure seems overly optimistic. U.S. Representative Rick Boucher estimates the total cost as being as high as \$7 billion dollars. Cheryl Bolen, *Subcommittee Looks to Berlin For Lessons in Transition to Digital*, TELECOMMUNICATIONS MONITOR, July 22, 2004 at <http://pubs.bna.com/ip/BNA/tcm.nsf/is/A0A9E4G3Y7>. The truth is, given that no one knows at this point how much converters will cost or how many will be needed, or how much it will cost to distribute them, undertaking such an effort this early in the DTV transition would place the government in the position of taking on an open ended liability without even knowing how much of the cost might be paid for by later auctioning excess broadcast spectrum.

how well the distribution is publicized. Of course, the fact that distribution will be difficult, and universal distribution will be impossible, should not deter efforts to craft a successful distribution of converters, but the Commission must recognize that these inherent obstacles will ensure that premature termination of analog broadcasting will still cause severe dislocation.

Third, a converter/tuner is a complex piece of equipment that is unlikely to be able to function by merely inserting it between the antenna wire and the television. The converter may not be compatible with the remote control that came with the television set, or it may not function properly when the antenna feeds through a VCR. In any case, the consumer will have to be given some level of installation knowledge, and will likely need to reorient his or her antenna given the highly directional nature of DTV signals and the fact that many DTV stations do not operate from the same transmitter site as their analog siblings. Where such adjustment involves climbing up on the roof and yelling “can you see anything now?” several hundred times, many consumers may just throw the converter into a drawer and watch nothing but DVDs after they are deprived of analog broadcasts. Those who doubt that such a result could occur would do well to remember the number of VCRs in America whose clocks are still blinking “12:00” incessantly.

Fourth, while providing consumers with a tax break for a converter rather than the converter itself would simplify the distribution process, it is unlikely to generate universal acquisition of converters, it would not overcome the installation, total cost, and other problems identified above, and a tax break would be of little benefit to low income families that rely on over-the-air reception, given that they may not have tax liabilities in the first place, and may not have enough disposable income to acquire the DTV equipment even if it would ultimately qualify them for a tax break.

While the obstacles to a successful converter distribution are substantial, there are several essential components for creating such a program. First, distribution of converters must begin well in advance of, preferably two years prior to, any planned shut-off date in order to prevent either consumers or the distribution system from being overwhelmed by an overnight conversion. Second, information regarding the program must be widely publicized, as a viewer who is unaware that they need and are entitled to additional equipment to continue receiving programming will not benefit from the program. As the Commission has stated, “[i]mmediate and direct communication with all affected” individuals is essential to the effectiveness of any distribution plan.¹⁸

The converter itself must also be very consumer-friendly. Installation and set-up must be extremely simple. Instructions regarding set-up must be clear, simple, and multilingual, with accompanying illustrations and a toll-free technical help-line staffed by multilingual technicians to answer inquiries regarding installation and setup of the converter technology.

The converter must be compatible with all existing equipment. Providing a free converter while simultaneously requiring viewers to purchase a new antenna or throw away their VCR is obviously absurd. The converter must not reduce or eliminate the functionality of a consumer’s existing remote control, or it must include a replacement remote that will control the functions of the converter-equipped television set. Lastly, it is vitally important that the converter convert and display *all* of the digital signal, including multicast channels, closed-captioning, and EAS information.

¹⁸ See *National Association of Broadcasters and Association of Local Television Stations; Request for Modification or Clarification of Broadcast Carriage Rules for Satellite Carriers*, Declaratory Ruling and Order, 17 FCC Rcd 6065 (MB 2002) at ¶ 32.

With these ingredients, the government can maximize the success of a converter distribution program, but Univision wishes to emphasize once again that even the best planned program will not be able to transport, for example, the Hispanic population from zero over-the-air DTV use to universal DTV use overnight. That process will take more than just good planning—it will take time. The public will be poorly served if both the government and broadcasters fail to acknowledge that fact.

V. PREMATURELY TERMINATING A FREE LIFELINE SERVICE TO MILLIONS OF AMERICANS IN ORDER TO EXPEDITE SPECULATIVE LUXURY WIRELESS SERVICES FOR THOSE WHO CAN PAY TURNS PUBLIC POLICY ON ITS HEAD

At the outset, Univision wishes to emphasize once again that it has no interest in operating both analog and digital facilities for its stations one day longer than necessary to ensure continuous service to its viewers while the transition to DTV is completed. Those who charge that broadcasters are “squatting” on the analog channel for profit clearly have never examined the economics of dual facility operation. That being said, Univision has no choice but to bear those additional costs as a form of “universal service fee” to ensure that all of its viewers continue to have access to news, educational programming, community information, and emergency and weather alerts until they are all equipped to obtain this information through DTV signals.

For this reason, Univision wholeheartedly endorses any effort by the Commission or Congress to expedite the pace of public adoption of DTV equipment, including the provision of DTV cable carriage obligations. Once the transition to DTV has been completed, Univision looks forward to seeing new or expanded wireless services using the newly-available spectrum. In the meantime, however, there can be little doubt that the “best use of the spectrum” is to

continue to provide the free informational lifeline and community glue that is analog broadcast television.

However, wireless companies, seeing an opportunity for additional profits in exploiting the analog broadcast spectrum, and being too impatient to wait for the public to be done using it, have begun a campaign of relentless lobbying to convince Congress and the Commission that the “informational lifeline” to these tens of millions of Americans should be subjugated to the speculative benefits of new wireless gadgets available only to those members of the public able to pay for them. It is difficult to explain to an over-the-air viewer that they are losing access to local news and emergency information so that someone can have an additional fax line in their boat. It will be many years (if ever) before more Americans benefit from the use of this analog spectrum for wireless technologies than are currently relying on it today as a source of news and information, and public policy must recognize that fact.

Given this extremely lopsided balance of the public’s interests, Univision urges the Commission to avoid falling into the mindset that the return of the analog spectrum is the goal of the DTV transition, when the actual goal all along has been to transition the public to DTV. The two goals are not incompatible, as promoting the DTV transition will result in the return of the analog spectrum. However, when the return of the analog spectrum is elevated above all other interests, it severely undercuts the DTV transition and harms the public in the process.

CONCLUSION

Based on the information provided herein, termination of analog broadcasting in the near future would be extremely harmful to the public, and particularly to the Hispanic segment of it. While Univision looks forward with great anticipation to the day when it will be able to reach its viewers entirely in the digital domain, digital set penetration, particularly in the Hispanic community, demonstrates that day is still some distance away. Univision therefore urges the

Commission to take all available steps to encourage and expedite the public's transition to DTV. However, those efforts should not come at the expense of the many millions of families who would suddenly find themselves isolated from their major sources of news, entertainment, and emergency information should the government place a higher value on promoting new luxury wireless services than on preserving the informational lifeline of the working public.

Respectfully submitted,

UNIVISION COMMUNICATIONS INC.

By: /s/ Scott R. Flick

Scott R. Flick
Christopher J. Sadowski

Its Counsel

Shaw Pittman LLP
2300 N Street, NW
Washington, D.C. 20037
(202) 663-8000

Dated: August 11, 2004