Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
Shareholders of Univision Communications Inc. (Transferor)	)	BTCCT-20060718AGO *et al.*
and	)	
Broadcasting Media Partners, Inc. (Transferee)	)	
For Transfer of Control of Univision Communications, Inc., and Certain Subsidiaries, Licensees of KUVE-TV, Green Valley, Arizona *et al.*	)	
In the Matter of	)	
Univision Cleveland, LLC	)	NAL/Acct. No. 0741420022 FRN No. 0005794177
For Renewal of License of Station WQHS-TV, Cleveland, Ohio.	)	File No. BRCT - 20050601BER Facility ID No. 60556
In the Matter of	)	
KDTV License Partnership, G.P.	)	
For Renewal of License of Station KDTV(TV), San Francisco, California	)	File No. BRCT-20060803APD Facility ID No. 33778

MEMORANDUM OPINION AND ORDER

Adopted: March 16, 2007 **Released: March 27, 2007**

By the Commission: Chairman Martin and Commissioner Tate issuing separate statements; Commissioner Copps and Adelstein approving in part, concurring in part, and issuing separate statements.

I. INTRODUCTION

1. The Commission has under consideration applications listed in the attached Appendices that seek consent to transfer control of licensee subsidiaries of Univision Communications Inc. ("Univision"), that hold 41 full-power, 14 class A, five low-power, and five television translator licenses, as well as 73 full-power radio licenses (55 FM and 18 AM) and nine FM translator licenses, from Univision's current

shareholders to Broadcasting Media Partners, Inc. ("BMPI").[1] In connection with the merger, BMPI has requested six months from the date of consummation to bring certain of its investors into compliance with Section 73.3555(d) (the "newspaper/broadcast cross-ownership rule") in five markets; six months from the date of consummation to bring certain of its investors into compliance with Section 73.3555(c) (the "radio/television cross-ownership rule") and Section 73.3555(a) (the "local radio ownership rule") in three markets; and six months from the date of consummation to come into compliance with the local radio ownership rule in the Albuquerque, New Mexico radio market.[2] Finally, BMPI has requested two continuing satellite exceptions to Section 73.3555(b) of the Commission's rules (the "local television ownership rule"), pursuant to Note 5 of Section 73.3555.[3]

2. On August 23, 2006, Theodore M. White filed a letter complaining of Univision's actions during an ownership dispute involving Station WFDC-TV (previously WTMW(TV)), Arlington, Virginia,[4] to which Univision responded on September 6, 2006.[5] On September 5, 2006, Rincon and Associates, Edward Rincon, and Conrad E. Gomez (collectively "Rincon"), residents of Dallas, Texas, and Albuquerque, New Mexico, filed a Petition to Deny opposing the transfer of control of certain Univision television and radio stations in the Dallas, Texas, and Albuquerque, New Mexico, markets.[6] Univision and BMPI filed separate responses to the Rincon petition on September 20, 2006,[7] and Rincon filed a reply on September 29, 2006.[8] For the reasons set forth below, we deny Mr. White's August 23, 2006, letter to the extent it opposes the Station WFDC-TV transfer of control application, deny Rincon's September 5, 2006, petition, and grant the applications for transfer of control referenced in the Appendices, subject to the conditions set forth below.

3. On August 31, 2005, the Office of Communication of the United Church of Christ, Inc. ("UCC"), filed a Petition to Deny opposing the license renewal application of Station WQHS-TV, Cleveland, Ohio, licensed to Univision Cleveland LLC ("Univision Cleveland").[9] Univision Cleveland is

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[1] The Commission has granted applications to assign one full-power television license and one television translator license to Univision subsidiaries, but the parties have yet to consummate the transactions. *See* File Nos. BALCT-20060411ACB and BALTTL-20060411ACC. Applications have been filed to transfer control of these two stations to post-merger Univision, and are included in Appendix A. *See* File No BTCCT-20060718AGO (seeking consent to transfer control of Univision Television Group, Inc., licensee of stations KUTF(TV) and K45GX). The parties are also seeking consent to transfer 12 microwave and 12 earth station licenses, the applications for which are listed in Appendix B and C, respectively.

[2] 47 C.F.R. §§ 73.3555(a), (c), and (d) (2002).

[3] 47 C.F.R. §73.3555(b) (2002).

[4] *Letter from Bruce A. Eisen to Marlene H. Dortch, Secretary, Federal Communications Commission* (August 23, 2006) ("*White Letter*").

[5] *Letter from Scott Flick, Esq., to Marlene Dortch, Secretary, Federal Communications Commission* (September 6, 2006).

[6] *Rincon & Associates Petition to Deny*, filed September 5, 2006. Rincon's petition is late-filed and, therefore, will be considered as an informal objection pursuant to section 73.3587 of the Commission's rules. 47 C.F.R. §73.3587. Rincon filed a "corrected version" of the petition on September 11, 2006. *Rincon & Associates Corrected Petition to Deny*, filed September 11, 2006, (original and corrected version collectively referred to herein as *"Rincon Informal Objection").*

[7] *Univision Communications, Inc. Opposition to Petition to Deny*, filed on September 20, 2006; *Letter from Mace Rosenstein, Esq., to Marlene H. Dortch, Secretary, Federal Communications Commission* (September 20, 2006) ("*BMPI Opposition*").

[8] *Rincon & Associates Reply to Opposition to Petition to Deny*, filed on September 29, 2006 ("*Rincon Reply*").

[9] *UCC Petition to Deny License Renewal Application of Station WQHS-TV, Cleveland, Ohio*, filed August 31, 2005.

a wholly owned subsidiary of Univision that airs programming provided by the Univision programming service. UCC, which claims to represent parents and children who regularly view television within the service area of Station WQHS-TV, argues that the Spanish-language telenovela *Complices Al Rescate* does not qualify as core children's programming because it is a general audience program that does not have serving the educational and informational needs of children as a significant purpose.[10] According to the FCC Form 398 Children's Television Programming Reports filed with the Commission for the period June 31, 2004, until March 30, 2005, Univision Cleveland, along with other stations employing the Univision programming service, identified the program *Complices Al Rescate* as the core children's program that satisfied the obligation to serve the educational and informational needs of children. Both Univision Cleveland and UCC have filed responsive pleadings.

4. On November 1, 2006, the National Hispanic Media Coalition ("NHMC") filed a Petition to Deny opposing the license renewal application of Station KDTV(TV), San Francisco, California, licensed to KDTV License Partnership, G.P. ("KDTV").[11] KDTV is also a wholly owned subsidiary of Univision that airs programming provided by the Univision programming service. NHMC, which claims to be a non-profit coalition of American Latino organizations, raises many of the same issues with respect to the the Spanish-language telenovelas *Vivan Los Ninos* and *Amy, La Nina De La Mochila Azul* as UCC has raised with respect to *Complices Al Rescate*, namely, that KDTV has failed to comply with the Commission's Children's Television processing guidelines because *Vivan Los Ninos* and *Amy, La Nina De La Mochila Azul* are directed at the general audience, are not specifically created for children, and do not have education as a significant purpose.[12] Both KDTV and NHMC have filed responsive pleadings.

II. BACKGROUND

5. Pursuant to the merger agreement, at consummation each share of Univision stock, with certain limited exceptions, will be converted into the right to receive cash consideration. An acquisition subsidiary of BMPI will then merge into Univision, after which the separate existence of the acquisition subsidiary will cease. Each outstanding share of the acquisition subsidiary's stock will be converted into one share of Univision common stock, with the result that Univision will become a wholly owned subsidiary of BMPI.[13] Total consideration for the merger is approximately $13.7 billion.

6. The following five entities will make up BMPI: Madison Dearborn Partners, LLC ("MDP"); Providence Equity Partners, Inc. ("PEP"); Saban Capital Group ("Saban"); Texas Pacific Group ("TPG"); and Thomas H. Lee Partners, L.P. ("THLP"). With the exception of Saban, each entity will hold 23.314% of the votes and equity stock of BMPI and designate two members of the BMPI Board of Directors. Saban will hold a 6.744% voting and equity interest and designate one director. Each entity will also

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[10] On January 9, 2006, Univision Cleveland filed a Motion to Strike UCC's Reply to Opposition to Petition to Deny, arguing that UCC's reply was not limited to matters raised in Univision's Opposition to Petition to Deny. We will consider the entire record in this proceeding. The reply and attached declaration from Dr. Frederic Subervi does, however, question for the first time whether a separate program, *Vivan Los Ninos*, qualifies as core programming. We need not determine whether this program, within the context of the Station WQHS-TV license renewal proceeding, meets the definition of "core programming," as this issue is squarely addressed in the KDTV petition.

[11] *NHMC Petition to Deny License Renewal Application of Station KDTV(TV), San Francisco, California*, filed November 1, 2006.

[12] Both UCC and NHMC both have standing to file petitions to deny. *See Office of Communication of United Church of Christ,* 359 F.2d 994, 1005-1006 (D.C. Cir. 1966).

[13] Agreement and Plan of Merger, Section 3.1.

have the right to remove, and find replacements for, its designated directors.[14] With the exception of Saban, each of the five principal entities is structured so that insulated limited partners will hold virtually all of the equity necessary for the transaction, while professional investment managers will exercise voting control.[15] In the case of Saban, Haim and Cheryl Saban will exercise both voting control and contribute substantially all of the equity.[16]

7. BMPI does not directly hold any interests in any broadcast licensee, cable television system, or daily newspaper that would be attributable under the standards set forth in the Notes to Section 73.3555 of the Commission's rules. However, principals of PEP will, through commonly controlled investment funds, hold an attributable 16% interest in Freedom Communications Holdings, Inc. ("Freedom"), as well as interests in Bluestone TV Holdings Inc., Bluestone Television LLC, and Bustos Media, LLC.[17] Together these entities control 15 broadcast television licenses, several local newspapers, and 24 full-power radio licenses.[18] BMPI acknowledges that the PEP principals holding the interests in these properties will also hold an attributable interest in BMPI.[19] In addition, principals of THLP that will have an attributable interest in BMPI hold, through commonly controlled investment funds, an attributable 25% voting and equity interest in Cumulus Media Partners LLC ("Cumulus"), which owns and controls 36 full-service radio licenses.[20] BMPI acknowledges that the proposed transaction will result in principals of PEP and THLP holding interests that will violate either the newspaper/broadcast cross-ownership rule, the radio/television cross-ownership rule, or the radio ownership rule, in a total of eight markets, and has requested six months from consummation to bring the interests of PEP and THLP into compliance with the relevant multiple and cross-ownership rules.[21]

III. DISCUSSION

8. Section 310(d) of the Act provides that no station license shall be transferred or assigned until the Commission, upon application, determines that the public interest, convenience, and necessity will be served thereby. In making this assessment, the Commission must first determine whether the proposed transaction would comply with the specific provisions of the Act,[22] other applicable statutes, and the

[14] *Univision Communications, Inc. Applications for Approval of Transfer of Control ("Applications for Transfer of Control"),* at Exhibit 14, page 1.

[15] *See Applications for Transfer of Control*, at Exhibit 14. Those individuals or entities holding partnership and non-insulated limited partnership interests are generally subject to the Commission's broadcast multiple and cross-ownership rules, regardless of the amount or percentage of equity held. 47 C.F.R. §73.3555, Note (f)(1). An exception from attribution applies to insulated limited partners as set forth in the Notes to Section 73.3555. *Id.* at Note (f)(1) and (2).

[16] *Applications for Transfer of Control*, at Exhibit 14, pages 12-16.

[17] *Id.* at Exhibit 16, pages 2-4.

[18] *See id.*

[19] *Id.* at Exhibit 18-B, page 1.

[20] *Id.* at Exhibit 16, pages 1-2.

[21] *Id.* at Exhibit 18-B, pages 1-2. Univision has an attributable interest in television stations owned and controlled by Entravision Communications Corporation ("Entravision") that are (a) affiliated with the Univision Television Network; and (b) can only be sold with the approval of Univision. *Shareholders of Hispanic Broadcasting Corporation*, 18 FCC Rcd 18834, 18852 (2003). Entravision television stations meeting these criteria have been included in BMPI's multiple ownership showings.

[22] Section 310(d) requires that the Commission consider the applications as if the proposed transferee were applying for the licenses directly. 47 U.S.C. § 310(d). *See SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control,* 20 FCC Rcd 18290, 18300 ¶ 16 (2005) ("*SBC-AT&T Order*"); V*erizon*

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Rules.[23] If the transaction would not violate a statute or rule, the Commission considers whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[24] The Commission then employs a balancing process, weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.[25] The applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, would serve the public interest.[26] If the Commission is unable to find that the proposed transaction serves the public interest, or if the record presents a substantial and material question of fact, Section 309(e) of the Act requires that the applications be designated for hearing.[27]

9. **Newspaper/Broadcast Cross-Ownership Rule**. Because of PEP's interest in Freedom,[28] grant of the applications will violate the newspaper/broadcast cross-ownership rule in the following five markets: Los Angeles, California; Phoenix, Arizona; Fresno-Visalia, California; Harlingen-Weslaco-Brownsville-McAllen, Texas; and Odessa-Midland, Texas.[29] The newspaper/broadcast cross-ownership rule prohibits an entity that directly or indirectly operates or controls a daily newspaper from (1) owning an AM station whose predicted or measured 2 mV/m contour encompasses the entire community in which the newspaper is published; (2) owning an FM station whose predicted or measured 1 mV/m contour

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Communications, Inc. and MCI, Inc. Applications for Approval of Transfer of Control, 20 FCC Rcd 18433, 18442-43 ¶ 16 (2005) ("*Verizon-MCI Order*"); *Applications of Nextel Communications, Inc. and Sprint Corporation,* 20 FCC Rcd 13967, 13976 ¶ 20 (2005) ("*Sprint-Nextel Order*"); *News Corp.-Hughes Order,* 19 FCC Rcd at 483 ¶ 15; *Comcast-AT&T Order,* 17 FCC Rcd at 23255 ¶ 26.

[23] *See, e.g., SBC-AT&T Order*, 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18442-43 ¶ 16; *Applications for Consent to the Assignment of Licenses Pursuant to Section 310(d) of the Communications Act from NextWave Personal Communications, Inc., Debtor-in-Possession, and NextWave Power Partners, Inc., Debtor-in-Possession, to Subsidiaries of Cingular Wireless LLC*, 19 FCC Rcd 2570, 2580-81 ¶ 24 (2004); *EchoStar Communications Corp., General Motors Corp. and Hughes Electronics Corp., and EchoStar Communications Corp., Hearing Designation Order*, 17 FCC Rcd 20559, 20574 ¶ 25 (2002) ("*EchoStar-DIRECTV HDO*").

[24] *See SBC-AT&T Order,* 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order,* 20 FCC Rcd at 18443 ¶ 16; *Sprint-Nextel Order,* 20 FCC Rcd at 13976 ¶ 20.

[25] *See SBC-AT&T Order,* 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order,* 20 FCC Rcd at 18443 ¶ 16; *Sprint-Nextel Order,* 20 FCC Rcd at 13976 ¶ 20; *News Corp.-Hughes Order*, 19 FCC Rcd at 483 ¶ 15; *Comcast-AT&T Order*, 17 FCC Rcd at 23255 ¶ 26.

[26] *See SBC-AT&T Order*, 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18443 ¶ 16; *Comcast-AT&T Order,* 17 FCC Rcd at 23255 ¶ 26; *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20574 ¶ 25.

[27] 47 U.S.C. § 309(e); *see also News Corp.-Hughes Order,* 19 FCC Rcd at 483 n.49; *EchoStar-DIRECTV HDO,* 17 FCC Rcd at 20574 ¶ 25.

[28] The licenses held by Bluestone TV Holdings Inc., Bluestone Television LLC, and Bustos Media, LLC, are not located in markets where Univision currently owns or controls broadcast television and/or radio licenses and, thus, PEP's interests in these entities will not implicate the Commission's multiple or cross-ownership rules.

[29] PEP's ownership interests in the following stations and newspapers will implicate the newspaper/broadcast cross-ownership rule: **Los Angeles** – *Orange County Register*; KMEX-TV, Los Angeles, CA; KTFR-TV, Ontario, CA; KLVE(FM), Los Angeles, CA; KSCA(FM), Glendale, California; and KTNQ(AM), Los Angeles; CA; **Phoenix** – *East Valley Tribune/Scottsdale Tribune*; KTVW-TV, Phoenix, AZ; and KHOT-FM, Paradise Valley, AZ; **Fresno-Visalia** – The Porterville Recorder; KTFF-TV, Porterville, CA; and KRDA(FM), Hanford, CA; **Odessa-Midland** – *Odessa American*, and KUPB(TV), Midland, TX. In **Harlingen-Weslaco-Brownsville-McAllen**, PEP has interests in the *Brownsville Herald* in Brownsville, TX, the *Valley Morning Star* in Harlingen, TX, and *The Monitor/La Frontera* in McAllen, Texas. Stations KNVO(TV), McAllen, TX; KBTQ(FM), Harlingen, TX; KGBT-FM, McAllen, Texas; and KGBT(AM), Harlingen, TX will encompass Harlingen and McAllen, TX. Brownsville will be encompassed by the Grade A contour of Station KNVO(TV).

encompasses the entire community in which the newspaper is published; or (3) owning a broadcast television station whose Grade A contour encompasses the entire community in which the newspaper is published.[30]

10. BMPI argues that grant of the rule waivers requested in the applications would serve the public interest because it would "facilitate[] the timely and efficient consummation of the transaction without disruption to shareholders" while permitting the orderly adjustment of overlapping interests.[31] BMPI states that, given the size of the transaction, these overlapping interests involve a relatively small proportion of licenses to be transferred as a result of this transaction,[32] and that, further, the threat to diversity and competition is attenuated by the fact that the interests held by its investors in those entities implicating the Commission's multiple and cross-ownership rules are non-controlling. BMPI argues that, under similar circumstances, the Commission has previously granted multiple and cross-ownership rule waivers of 12, 18 and 24 months.[33] BMPI finally states that the markets affected by the transaction are generally large and, thus, any harm to diversity will be minimal.[34]

11. The Commission has stated that it would consider permanent or temporary waivers of the newspaper/broadcast cross-ownership rule where (1) a licensee is unable to sell a station; (2) where the only sale possible would be at an artificially depressed price; (3) separate ownership and operation of the newspaper and the broadcast station could not be supported in the locality; or (4) for whatever reason, the purposes of the rule would be disserved by its application.[35] In the order adopting the newspaper/broadcast cross-ownership rule, the Commission stated that it would examine, under the fourth "catch-all" category, any special circumstances advanced by the party as having a bearing on the appropriateness of granting a waiver.[36] Although BMPI does not specify under which category it is seeking a waiver of the newspaper/broadcast cross-ownership rule, it appears to invoke the fourth "catch-all" provision.

12. We find that granting a temporary waiver of the newspaper/broadcast cross-ownership rule in the five markets mentioned above is consistent with the four-part waiver standard. Specifically, several factors constitute "special circumstances" justifying grant of a temporary six-month waiver under the

[30] 47 C.F.R. §73.3555(d) (2002).

[31] *Applications for Transfer of Control*, at Exhibit 18-B, page3.

[32] *Applications for Transfer of Control*, at Exhibit 18-B, page 16.

[33] *Id.* at Exhibit 18-B, page 17. BMPI cites the following cases: *Fox Television Stations, Inc.*, 16 FCC Rcd 14975, 14989 (2001) (24-month waiver of the newspaper/broadcast cross-ownership rule); *Capital Cities/ABC, Inc.*, 11 FCC Rcd 5841, 5862 (18-month waiver of broadcast television multiple ownership rule); and *Telemundo Communications Group, Inc.*, 17 FCC Rcd 6958, 6978 (2002) (12-month waiver of broadcast television multiple ownership rule). *Id.* at Exhibit 18-B, n. 39.

[34] *Id.* at Exhibit 18-B, page 4.

[35] *Multiple Ownership of Standard, FM and Television Broadcast Stations, Second Report and Order*, 50 FCC 2d 1046, 1084-1085 (1975) ("*Second Report and Order"*), *recon.*, 53 FCC 2d 589 (1975), *aff'd sub nom. Federal Communications Commission v. National Citizens Committee for Broadcasting,* 436 U.S. 775 (1978); *Request for Waiver of the Broadcast-Newspaper Cross-Ownership Rule Relating to WNYW and the New York Post*, 8 FCC Rcd 5341 (1993), *aff'd sub nom., Metropolitan Council of NAACP Branch v. FCC*, 46 F.3d 1154 (D.C. Cir. 1995).

[36] *See Second Report and Order,* 50 FCC 2d at 1085. The Commission has previously granted several temporary waivers of the rule to provide a period of time to come into compliance with the broadcast/newspaper cross-ownership rule. *See, e.g., ChancellorMedia/Shamrock Radio Licenses, Inc.,* 15 FCC Rcd 17053 (2000) (12-month waiver of newspaper/broadcast cross-ownership rule); *Capital Cities/ABC, Inc.,* 11 FCC Rcd at 5895 (12-month waiver of newspaper/broadcast cross-ownership rule).

fourth "catch-all" category of the radio/television cross-ownership waiver standard to effectuate the overall transaction between Univision and BMPI. First, the transaction is large, involving a total of 114 broadcast television and radio stations in numerous markets. The markets where there will be a temporary violation of the newspaper/broadcast cross-ownership rule represent a relatively small portion of the markets at issue in this transaction. Second, the temporary waivers' effect on competition and diversity is mitigated by the level of competition and diversity that already exists in the affected markets. The Los Angeles and Phoenix television markets are ranked two and 15, respectively, and are served by a multiplicity of broadcast radio stations.[37] The Fresno-Visalia market contains 10 separate television station owners, as well as 67 FM radio stations, 23 AM radio stations and six daily and seven weekly newspapers.[38] According to BMPI, *The Porterville Recorder*, the newspaper that implicates the broadcast/newspaper cross-ownership rule in the Fresno-Visalia market, has the second smallest circulation of the six daily newspapers serving the area.[39] The Harlingen-Weslaco-Brownsville-McAllen, Texas, and Odessa-Midland, Texas markets contain seven full-power and nine full-power broadcast television stations, as well as 30 and 27 radio stations, respectively.[40] Three weekly newspapers published in the Harlingen-Weslaco-McAllen market will exceed the circulation figures of the newspapers owned by Freedom.[41] The *Odessa American*, which is also owned by Freedom, is one of three daily newspapers published in the Odessa-Midland market.[42] Under these circumstances, we conclude that diversity and competition will not be unduly harmed during the short period of common ownership. Finally, we agree that the threat to diversity and competition is attenuated by the fact that PEP holds only a limited, non-controlling interest in Freedom.

13. Having reviewed the record in its entirety, we conclude that it would be in the public interest to grant BMPI a temporary six month waiver of the newspaper/broadcast cross-ownership rule for the Los Angeles, Phoenix, Fresno-Visalia, Harlingen-Weslaco-Brownsville-McAllen and Odessa-Midland markets subject to the conditions described below. BMPI shall come into compliance with this rule within 6 months of consummation of the proposed transaction by either PEP divesting its interest in Freedom, or the post-merger Univision divesting those broadcast station licenses implicating the newspaper/broadcast cross-ownership rule. To ensure that the post-merger Univision no longer owns or controls properties implicating the newspaper/broadcast cross-ownership rule in the above markets following expiration of the 6-month period, the parties must ensure either that: (1) within 60 days of release of this order, PEP files evidence of a binding commitment to transfer its stock interest in Freedom to a divestiture trust, including a copy of the trust agreement, if full compliance with the newspaper/broadcast cross-ownership rule has not been achieved within 6 months of consummation; or (2) within 60 days of release of this order, Univision must file applications seeking to assign those broadcast licenses implicating the newspaper/broadcast cross-ownership rule to a divestiture trust, including a copy of the trust agreement, which the Commission shall grant, if the applicants are so qualified and full compliance with the newspaper/broadcast cross-ownership rule has not been achieved within 6 months of consummation.[43] We note that a waiver of the Commission's multiple and cross-

[37] *Broadcasting and Cable Yearbook 2006,* at page A-2, by Reed Elsevier, Inc., Newton, MA, 2003.

[38] *Applications for Transfer of Control*, at Exhibit 18-B, Appendix C.

[39] *Id.*

[40] *Applications for Transfer of Control*, at Exhibit 18-B, Appendices D and E.

[41] *Id.* at Exhibit 18-B, Appendix D.

[42] *Id.* at Exhibit 18-B, Appendix E.

[43] The trustee shall have no family relationships with the principals of either PEP or the post-merger Univision and no past business relationship with either PEP or Univision, its affiliates or principals, except to the extent required to establish the trust. The trust, which shall have the sole purpose of divesting the properties and/or interests at issue, shall place the exclusive authority to vote and control the interest in Freedom, or manage and operate the stations at

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ownership rules in markets representing a relatively small proportion of a much larger multiple-station transaction generally serves the public interest by "promot[ing] commerce, encourage[ing] investment in the broadcast industry, and allow[ing] for the free transferability of broadcast licenses,"[44] and by preventing the sale of stations at "fire sale" prices.

14. **Radio/Television Cross-Ownership and Local Radio Ownership Rule.** In addition to the violations of the newspaper/broadcast cross-ownership rule, THLP's common attributable interests in Cumulus and BMPI will result in combinations violating the numerical ownership limits of both the radio/television cross-ownership rule and the local radio ownership rule in the Dallas, Texas, San Francisco, California, and Houston-Galveston, Texas, markets. The radio/television cross-ownership rule is implicated when the Grade A contour of a television station encompasses the entire community of license of a commonly owned AM or FM radio station, or when the 2 mV/m contour of an AM radio station, or the 1 mV/m contour of an FM radio station, encompasses the entire community of license of a commonly owned television station.[45] An entity may hold an attributable interest in one television station and up to six radio stations in any market where at least 20 independently owned media voices remain in the market after the proposed transaction.[46] If, under the Commission's local television ownership rule, a

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issue, in the hands of a trustee. The trust shall terminate upon the sale of PEP's interest in Freedom, or the sale of all Univision's broadcast stations implicating the newspaper/broadcast cross-ownership rule to a third party. The proceeds from the sale of the properties, less the expenses associated with the sale, shall go to either PEP or Univision. While the trust is in effect, revenue in excess of expenses may be remitted periodically to either PEP or Univision. The trust shall comport with the insulation standards applicable to such mechanisms under Commission practice, including barring certain communications between the beneficiary and the trustee and contractual and other relationships between the parties. *See Twentieth Holdings Corporation*, 4 FCC Rcd 4052 (1989).

[44] *Stockholders of CBS, Inc.*, 11 FCC Rcd 3733,3755 (1995).

[45] 47 C.F.R. §73.3555(c)(i) and (ii) (2002). On July 2, 2003, the Commission issued its 2002 *Biennial Review Order*, in which it replaced all existing broadcast cross-ownership rules with new Cross-Media Limits, and modified the local radio ownership rule by, among other things, replacing the contour-overlap approach with Arbitron Metros, where Arbitron markets exist. *See 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunication Act of 2002*, 18 FCC Rcd 13620 (2003) ("*2002 Biennial Review Order*"), aff'd in part and remanded in part, *Prometheus Radio Project et al v. F.C.C.*, 373 F.3d 372 (3d Cir. 2004) ("*Prometheus Remand Order*"), stay modified on rehearing, (3d Cir. Sept. 3, 2004) ("*Prometheus Rehearing Order*"). On September 3, 2003, the U.S. Court of Appeals for the Third Circuit stayed the effective date of the rule changes contained in the *2002 Biennial Review Order*, stating that the "prior ownership rules [will] remain in effect pending resolution of these proceedings." *Prometheus Radio Project v. Federal Communications Commission*, No. 03-3388 (3d Cir. Sept. 3, 2003) (per curiam). In the *Prometheus Remand Order*, the U.S. Court of Appeals for the Third Circuit eventually upheld the Commission's decision to alter certain aspects of the local radio ownership rule, including the switch to Arbitron Metros. *Prometheus Remand Order*, 373 F.3d at 423. The Third Circuit subsequently lifted its stay with respect to this aspect of the *2002 Biennial Review Order* on September 3, 2004. In determining compliance with the local radio ownership rule, we will apply the Arbitron Metro market definition. Because the stay of the Commission's proposed Cross-Media Limits has not been lifted, however, the prior radio/television cross-ownership rule remains in effect.

[46] 47 C.F.R. §73.3555(c)(2)(i)(A) (2002). Where a resulting combination contains radio stations in more than one Arbitron Metro market, the number of radio and/or television stations that may be owned must comply with the numerical ownership limits in each Metro where the radio/television cross-ownership rule is implicated. *Review of the Commission's Regulations Governing Television Broadcasting ("Television Ownership Order"),* 14 FCC Rcd 12903, 12952 n.173 (1999). Radio stations located outside a Metro, but with a "reportable share" in the Metro, are considered "voices" in determining the relevant numerical ownership limit, but radio stations located in one Metro do not count towards the limit on the number of radio stations a party may own in another Metro, unless it is a radio station's relevant contour that triggers the rule. *Id.* at 12951; *Review of the Commission's Regulations Governing Television Broadcasting, Memorandum Opinion and Second Order on Reconsideration ("Television Ownership Reconsideration")*, 16 FCC Rcd 1067, 1081 (2000).

single entity could own two television stations in the market, it may hold either two television and six radio stations or one television and seven radio stations in that market.[47] In markets where at least 10 independently owned media voices will exist after the transaction, an entity may hold attributable interests in one television station and up to four radio stations, or, if permitted by the Commission's local television ownership rule, two television stations and four radio stations.[48] Third, a party may hold attributable interests in one television station and one radio station or, if permitted by the Commission's local television ownership rule, two television stations and one radio station, regardless of the number of independent voices in the market after the merger.[49]

15. Under the local radio numerical limits and the AM/FM service subcaps that Congress directed the Commission to adopt in the Telecommunications Act of 1996 ("1996 Act"), an entity may own, operate, or control (1) up to eight commercial radio stations, not more than five of which are in the same service (i.e., AM or FM), in a radio market with 45 or more radio stations; (2) up to seven commercial radio stations, not more than four of which are in the same service, in a radio market with between 30 and 44 (inclusive) radio stations; (3) up to six commercial radio stations, not more than four of which are in the same service, in a radio market with between 15 and 29 (inclusive) radio stations; and (4) up to five commercial radio stations, not more than three of which are in the same service, in a radio market with 14 or fewer radio stations, except that an entity may not own, operate, or control more than 50 percent of the stations in such a market.[50]

16. In the Dallas market, applying the contour overlap method, THLP will have an interest in a two television/nine radio station combination that violates the numerical ownership limits of the radio/television cross-ownership rule.[51] Because the Dallas market will have more than 20 media voices, THLP can at most have attributable interests in two television and six radio stations, or one television and seven radio stations.[52] With respect to compliance with the numerical ownership limits of the local radio ownership rule, THLP will also have interests in 11 radio stations (four AM/seven FM) located in or assigned to the Dallas Arbitron Metro.[53] Because the Dallas Arbitron Metro contains more than 45 full-

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[47] 47 C.F.R. §73.3555(c)(2)(i)(B) (2002). Under the local television ownership rule, a party may own, operate or control two television stations within the same Nielsen Designated Market Area (DMA) if the Grade B contours of the stations do not overlap, or if eight or more independently owned and operating commercial and noncommercial television stations will be licensed to the DMA and at least one of the stations is not ranked within the top four stations in the DMA in terms of audience share. 47 C.F.R. §73.3555(b) (2002).

[48] 47 C.F.R. §73.3555(c)(2)(ii) (2002).

[49] 47 C.F.R. §73.3555(c)(2) (2002).

[50] *See* 1996 Act §202(b); 47 C.F.R. §73.3555(a) (2002). In the *2002 Biennial Review Order*, the Commission concluded that both stations serving communities of license within the Metro and reported as home to the Metro should be included in the count of stations belonging to the Metro for purposes of determining compliance with the local radio ownership rule. *2002 Biennial Review Order*, 18 FCC Rcd 13727. The Commission also decided to include both full-power commercial and noncommercial stations in determining market size. *Id.* The U.S. Court of Appeals for the Third Circuit has lifted its stay of this aspect of the *2002 Biennial Review Order*. *Prometheus Rehearing Order,* at 2.

[51] The combination will include the following stations: KSTR-TV, Irving, TX; KUVN-TV, Garland, TX; KDXX(FM), Benbrook, TX; KESS-FM, Lewisville, TX; KFLC(AM), Fort Worth, TX; KLNO(FM), Fort Worth, TX; KDBN(FM), Haltom City, TX; KKLF(AM), Richardson, TX; KLIF(AM), Dallas, TX; KPLX(FM), Fort Worth, TX; and KTCK(AM), Dallas, TX.

[52] 47 C.F.R. §73.3555(c)(2)(i) (2002). Univision currently owns two television stations in the Dallas-Ft. Worth DMA.

[53] The combination will include the following stations: KDXX(FM), Benbrook, TX; KESS-FM, Lewisville, TX; KFLC(AM), Fort Worth, TX; KFZO(FM), Denton, TX; KLNO(FM), Fort Worth, TX; KDBN(FM), Haltom City,

(continued....)

power radio stations, the numerical ownership limit is eight radio stations, of which no more than five can be in the same service.[54]

17. In the San Francisco market, overlaps of the relevant television and radio contours will result in THLP having interests in four separate combinations implicating the radio/television cross-ownership rule, two in the San Francisco Metro (two television and eight radio;[55] and one television and 10 radio[56]), and two in the San Jose Metro (two television and two radio; and one television and four radio). The San Jose combinations will comply with the radio/television cross-ownership rule. The San Francisco market will continue to have at least 20 independent voices after the merger and, therefore, the numerical ownership limit is two television and six radio stations, or one television and seven radio stations.[57] Both San Francisco combinations will therefore exceed the numerical ownership limits of the radio/television cross-ownership rule. THLP will have interests in a total of 10 radio stations (three AM and seven FM) that are either located in or assigned to the San Francisco Metro for purposes of determining compliance with the local radio ownership rule.[58] The San Francisco Metro contains 103 full-power radio stations and, therefore, the numerical ownership limit is eight radio stations, of which no more than five may be in the same service.[59] The combination therefore exceeds the numerical ownership limit of the radio ownership rule by 2 FM radio stations.

18. In the Houston-Galveston, Texas, market, overlaps of the relevant television and radio contours will result in THLP having interests in a two television and seven radio station combination,[60] and a separate one television and seven radio station combination implicating the radio/television cross-

(...continued from previous page)
TX; KKLF(AM), Richardson, TX; KLIF(AM), Dallas, TX; KPLX(FM), Fort Worth, TX; KTCK(AM), Dallas, TX; and KTDK(FM), Sanger, TX.

[54] 47 C.F.R. §73.3555(a)(1)(i) (2002).

[55] This combination will include the following stations: KDTV(TV), San Francisco, CA; KFSF-TV, Vallejo, CA; KSOL(FM), San Francisco, CA; KVVF(FM), Santa Clara, CA; KVVZ(FM), San Rafael, CA; KFFG(FM), Los Altos, CA; KFOG(FM), San Francisco, CA; KNBR(AM), San Francisco, CA; KSAN(FM), San Mateo, CA; and KTCT(AM), San Mateo, CA. Stations KFFG(FM) and KVVF(FM) are listed as "home" to the San Francisco Arbitron Metro by the BIA Media Access Pro Database, but are geographically located in the San Jose Arbitron Metro.

[56] This combination will include the following stations: KDTV(TV), San Francisco, CA; KBRG(FM), San Jose, CA; KLOK(AM), San Jose, CA; KSOL(FM), San Francisco, CA; KVVF(FM), Santa Clara, CA; KVVZ(FM), San Rafael, CA; KFFG(FM), Los Altos, CA; KFOG(FM), San Francisco, CA; KNBR(AM), San Francisco, CA; KSAN(FM), San Mateo, CA; and KTCT(AM), San Mateo, CA.

[57] Univision currently owns two television stations in the San Francisco-Oakland-San Jose DMA.

[58] This combination will include the following stations: KBRG(FM), San Jose, CA; KLOK(AM), San Jose, CA; KSOL(FM), San Francisco, CA; KVVF(FM), Santa Clara, CA; KVVZ(FM), San Rafael, CA; KFFG(FM), Los Altos, CA; KFOG(FM), San Francisco, CA; KNBR(AM), San Francisco, CA; KSAN(FM), San Mateo, CA; and KTCT(AM), San Mateo, CA.

[59] In the San Jose market, Univision will own four radio stations located in or assigned to the San Jose Metro. Because there are a total of 22 stations in the San Jose metro, the combination will comply with the numerical ownership limit of the local radio ownership rule.

[60] This combination will include the following stations: KXLN-TV, Rosenburg, TX; KFTH-TV, Alvin, TX; KLAT(AM), Houston, TX; KLTN(FM), Houston, Texas; KPTY(FM), Missouri City, TX; KRTX(AM), Rosenburg/Richmond, TX; KIOL(FM), La Porte, TX; KOVE-FM, Galveston, TX; and KRBE(FM), Houston, TX.

ownership rule.[61] Because the Houston-Galveston market will have more than 20 independent voices, and common ownership of the two television stations is consistent with the local television ownership rule,[62] the one television/seven radio station combination will comply with the radio/television cross-ownership rule's numerical ownership limits. The two television/seven radio station combination will, however, exceed the numerical ownership limits of the radio/television cross-ownership rule regardless of the number of voices. In addition, grant of the applications would also result in THLP holding interests in nine radio stations (two AM/seven FM) located in or assigned to the Houston-Galveston Arbitron Metro that implicate the local radio ownership rule.[63] Because 68 full-power radio stations are located in or assigned to the Houston-Galveston Metro, the combination exceeds the numerical ownership limit of the radio ownership rule by two FM radio stations.[64]

19. In evaluating waivers of the multiple and cross-ownership rules, the Commission weighs public interest concerns on a case-by-case basis in order to insure that the waiver does not unduly compromise the twin purposes of fostering diversity and competition that underlie the multiple and cross-ownership rules.[65] The Commission has stated that waivers of limited duration have less impact on diversity and competition, and may be analyzed within this context.[66]

20. In the past, the Commission has granted temporary waivers of its multiple and cross-ownership rules in order to facilitate transactions involving stations in different markets, stating that where "mergers or transfers of multiple stations are involved, in general we believe that the benefits derived from such transactions support grant of a reasonable period to effectuate the merger and permit time to come into compliance with our rules."[67] The Commission has stated that such waivers "promote commerce, encourage investment in the broadcast industry, and allow for the free transferability of broadcast licenses."[68] Grant of the requested waivers is consistent with Commission precedent since, as noted above, the affected markets represent a relatively small proportion of the markets at issue in this transaction. Moreover, BMPI is not asking for an extended period of time to come into compliance. Given the size of the transaction, to deny the waiver requests would run the risk of forcing a "fire sale" at below-market prices. Finally, the San Francisco-Oakland-San Jose, Dallas-Ft. Worth, and Houston DMAs are ranked six, seven, and 11, respectively, and thus diversity and competition will not be unduly harmed by a short period of common ownership. Having reviewed the record in its entirety, we conclude that it would be in the public interest to grant BMPI a temporary six-month waiver of the radio/television cross-ownership and radio ownership rules in the Dallas, Texas, San Francisco, California, and Houston-Galveston, Texas markets subject to the conditions described below. BMPI shall come into compliance with this rule within 6 months of consummation of the proposed transaction by either THLP divesting its interest in Cumulus, or the post-merger Univision divesting those broadcast station licenses exceeding the

[61] This combination will include the following stations: KFTH-TV, Alvin, TX; KLAT(AM), Houston, TX; KLTN(FM), Houston, Texas; KPTY(FM), Missouri City, TX; KRTX(AM), Rosenburg/Richmond, TX; KIOL(FM), La Porte, TX; KRBE(FM), Houston, TX; and KOVE-FM, Galveston, TX.

[62] Both television stations are currently controlled by Univision.

[63] This radio combination will include the following stations: KLAT(AM), Houston, TX; KLTN(FM), Houston, Texas; KOVE-FM, Galveston, TX; KPTI(FM), Crystal Beach, TX; KPTY(FM), Missouri City, TX; KRTX(AM), Rosenburg/Richmond, TX; KFNC(FM), Beaumont, TX; KIOL(FM), La Porte, TX; and KRBE(FM), Houston, TX.

[64] 47 C.F.R. §73.3555(a)(1)(i) (2002).

[65] *Multimedia, Inc.*, 11 FCC Rcd 4883, 4884-4885 (1995).

[66] *Id.* at 4885.

[67] *Id*.

[68] *See* n. 37, *supra*.

numerical ownership limits of the radio/television cross-ownership and radio ownership rules. To ensure that the post-merger Univision no longer owns or controls properties in excess of the numerical ownership limits of the radio/television cross-ownership or radio ownership rules in the above markets following expiration of the 6-month period, the parties must ensure either that: (1) within 60 days of release of this order, THLP files evidence of a binding commitment to transfer its stock interest in Cumulus to a divestiture trust within 6 months of consummation, including a copy of the trust agreement, if full compliance with the radio/television cross-ownership rule or the radio ownership rule has not been achieved within 6 months of consummation; or (2) Univision must file applications seeking to assign those broadcast licenses exceeding the numerical ownership limits of the radio/television cross-ownership and radio ownership rules to a divestiture trust, along with a copy of the trust agreement, within 60 days of release of this order, which the Commission shall grant, if the applicants are so qualified, and full compliance with the radio/television cross-ownership rule or the radio ownership rule has not been achieved within 6 months of consummation.[69]

21. **Albuquerque Market**. None of BMPI's investors will hold attributable interests in any radio stations, television stations, or newspapers serving the Albuquerque market. Univision, however, currently owns five FM radio stations that are licensed or assigned to the Albuquerque Arbitron Metro that it acquired in 2003 as part of a transaction involving Hispanic Broadcasting Corporation ("HBC").[70] The combination exceeds the FM service limit of the local radio ownership rule by one FM station. Because the Third Circuit Court of Appeals stayed all aspects of the *2002 Biennial Review Order* prior to the Commission order approving the Univision/HBC transaction, the Commission conditioned its approval of the Albuquerque applications upon Univision coming into compliance with the local radio ownership rule or filing a waiver request within six months of any decision to lift the stay.[71] On March 3, 2005, Univision filed a letter with the Commission seeking clarification of this condition in light of the Third Circuit's partial lifting of the stay.[72] BMPI has further requested that it be granted a six-month period following consummation of the proposed transaction to come into compliance with the local radio ownership rule in Albuquerque.[73]

22. In light of the proposed transfer of control of Univision, and BMPI's representation that it will come into compliance with the local radio ownership rule in Albuquerque, Univision's March 3, 2005, letter request is moot. We will, however, grant BMPI's request for a six-month temporary waiver subject to the conditions described below. As set forth in an exhibit to the transfer of control application, there

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[69] The trustee shall have no family relationships with the principals of either THLP or the post-merger Univision and no past business relationship with either THLP or Univision, its affiliates or principals, except to the extent required to establish the trust. The trust, which shall have as its sole purpose the divestiture of the interests and/or properties at issue, shall place the exclusive authority to vote and control the interest in Cumulus, or manage and operate the stations at issue, in the hands of a trustee. The trust shall terminate upon the sale of all of THLP's interest in Cumulus, or the sale of Univision properties exceeding the numerical ownership limits of the radio/television cross-ownership or radio ownership rules to a third party. The proceeds from the sale of the properties, less the expenses associated with the sale, shall go to either THLP or Univision. While the trust is in effect, revenue in excess of expenses may be remitted periodically to either THLP or Univision. The trust shall comport with the insulation standards applicable to such mechanisms under Commission practice, including barring certain communications between the beneficiary and the trustee and contractual and other relationships between the parties. *See Twentieth Holdings Corporation*, 4 FCC Rcd at 4052.

[70] *See Shareholders of Hispanic Broadcasting Corporation*, 18 FCC Rcd at 18839.

[71] *Id.*

[72] *Letter from Scott R. Flick, Esq., to Marlene H. Dortch, Secretary, Federal Communications Commission* (March 3, 2005).

[73] *Applications for Transfer of Control*, at Exhibit 18-B, page 16.

are 17 radio owners in the Albuquerque market in addition to Univision.[74] While BMPI will temporarily be in violation of the FM service limit of four FM radio stations, it will not violate the broader numerical ownership limit of seven radio stations. In addition, the market is only one station short of permitting ownership of five FM stations. In light of these circumstances, diversity and competition in the market will not be unduly compromised during the short period of common ownership and the additional time period will allow for the orderly divestiture of one of the stations. Having reviewed the record in its entirety, we conclude that it would be in the public interest to grant Univision a temporary six-month waiver of the radio ownership rule in the Albuquerque, New Mexico market subject to the conditions described below. The post-merger Univision shall come into compliance with this rule within 6 months of consummation of the proposed transaction by Univision divesting one FM radio station it currently owns and controls in the Albuquerque market. To ensure that the post-merger Univision no longer owns or controls properties in excess of the numerical ownership limit of the radio ownership rule following expiration of the 6-month period, Univision must file an application seeking to assign one broadcast FM license to a divestiture trust, along with a copy of the trustee agreement, within 60 days of release of this order, which the Commission shall grant, if the applicants are so qualified, and if full compliance with the radio ownership rule has not been achieved within 6 months of consummation.[75]

23. **Theodore M. White Pleading.** Mr. White's pleading stems from a contract dispute between himself as the controlling shareholder of Urban Broadcasting Corporation ("Urban"), the previous permittee of Station WFDC-TV (previously WTMW(TV)), Arlington, Virginia, and USA Broadcasting, Inc. ("USA Broadcasting"), which had loaned money to Urban for construction of Station WFDC-TV.[76] On May 21, 2001, the Mass Media Bureau consented to the transfer of control of USA Broadcasting's television stations to Univision, and denied a Petition to Deny filed by Mr. White.[77] Univision acquired Station WFDC-TV on June 1, 2001.[78] On March 3, 2004, the Commission denied Mr. White's application for review of the Commission's decision to grant the USA Broadcasting transfer of control applications.[79] Mr. White's judicial appeal of the Commission decision was dismissed by the U.S. Court of Appeals for the D.C. Circuit.[80]

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[74] *Id.* at Exhibit 18-B, page 24.

[75] The trustee shall have no family relationships with the principals of Univision and no past business relationship with Univision, its affiliates or principals, except to the extent required to establish the trust. The trust, which shall have as its sole purpose the divestiture of 1 FM radio stations in Albuquerque, shall place the exclusive authority to manage and operate the station in the hands of a trustee. The trust shall terminate upon the sale of one FM radio station serving the Albuquerque market to a third party and the proceeds from the sale of the station, less the expenses associated with the sale, shall go to Univision. While the trust is in effect, revenue in excess of expenses may be remitted periodically to Univision. The trust shall comport with the insulation standards applicable to such mechanisms under Commission practice, including barring certain communications between the beneficiary and the trustee and contractual and other relationships between the parties. *See Twentieth Holdings Corporation*, 4 FCC Rcd at 4052.

[76] In addition to loaning money for construction for Station WFDC-TV, the Home Shopping Network ("HSN"), an affiliate of USA Broadcasting, entered into an affiliation agreement with Urban. The affiliation agreement stipulated that HSN would pay Urban a fixed rate for each hour HSN programming was broadcast so long as certain conditions were met. The business relationship deteriorated to the extent that HSN filed, and won, a breach-of-contract suit before the Arlington County, Virginia, Circuit Court. Urban subsequently filed for bankruptcy.

[77] *Univision Communications, Inc.*, 16 FCC Rcd 10904 (2001).

[78] *See* BAPCT-20010411AAX.

[79] *USA Broadcasting, Inc.*, 19 FCC Rcd 4253 (2004).

[80] *White v. FCC*, No. 04-1110 (D.C. Cir. September 9, 2004). White's request for rehearing was denied on January 18, 2005.

24. Mr. White requests here that "the Commission [] associate [his] letter with the referenced application in light of Univision's predatory past activities which resulted in the loss of Urban's television authorization."[81] Mr. White argues that "Univision opposed White at every crossroad, abusing process after process just as wrongfully as had its predecessor."[82] He cites a pending bankruptcy proceeding, arguing that "Univision's conduct throughout the judicial proceeding and, indeed, at the time of the original transfer of control proceeding shows a callous disregard for the truth that should not go unnoticed by the Commission."[83] On September 6, 2006, Univision filed a response, arguing that the letter does not formally oppose grant of the WFDC-TV application; that the actions at issue involve USA Broadcasting, an unrelated third party; and that the Commission has in any case rejected Mr. White's allegations in passing upon the transfer of control of USA Broadcasting's stations to Univision.

25. In his Petition to Deny the transfer of control of USA Broadcasting's television stations to Univision, Mr. White had argued that USA Broadcasting deliberately lacked candor in its representations to the Arlington County Circuit Court hearing the original contract dispute. Mr. White essentially asks that the Commission reconsider his allegations within the context of this proceeding. We decline to do so. As the Commission stated in 2001, it "does not assume 'jurisdiction in contractual controversies involving broadcast licensees, recognizing that such matters are generally private in nature and appropriately left to local courts for resolution.'"[84] Mr. White has provided no evidence that Univision's legal actions since Urban's declaration of bankruptcy call into question its compliance with the Communications Act or Commission rules. Furthermore, the allegations do not involve any of the specified kinds of non-FCC misconduct considered by the Commission in determining whether an applicant has the requisite character qualifications to be a Commission licensee.[85]

26. **Rincon Informal Objection.** Rincon opposes the transfer of control of certain Dallas and Albuquerque television and radio stations,[86] citing violations of the multiple ownership rules in the markets and Univision's alleged control over the Spanish-language media market. Rincon also argues that Univision has repeatedly relied on foreign programming sources that do not serve the needs and interests of the local Hispanic community,[87] and that it has failed "to meet a higher standard befitting [a] company with such a dominant foothold in the Spanish-language programming market."[88] It questions whether Univision stations have provided programming germane to the local audience, such as adequate coverage of community events, and argues that BMPI has no relevant experience that will permit it to cure Univision's alleged failures. Rincon also argues that Univision programming perpetuates a "racial caste system" within the Hispanic community, thereby violating the "prohibition on color discrimination in American broadcasting" contained in Section 1 of the Communications Act of 1934. Despite Univision's argument to the contrary, Rincon contends that Univision has never "convincingly

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81 *White Letter* at 1.

82 *White Letter* at 2.

83 *Id.*

84 *USA Broadcasting, Inc.*, 19 FCC Rcd at 4256, *citing McCalister Television Enterprises, Inc.*, 60 R.R.2d 1379, 1383-84 (1986).

85 *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1196 (1985), *recon. denied*, 1 FCC Rcd 421 (1986) (fraudulent representations to another governmental unit are considered only when a specific finding of fraudulent representation is adjudicated).

86 In the corrected version of the petition, Rincon opposes the transfer of control of the following stations: KSTR-TV, Irving, TX; KUVN-TV, Garland, TX; KDXX(FM), Benbrook, TX; KTFQ-TV, Albuquerque, NM; and KQBT(FM), Rio Rancho, NM.

87 *Rincon Informal Objection,* at 10.

88 *Id.* at 23.

demonstrated an intent to come into compliance" with the radio ownership rule in Albuquerque,[89] or that it is entitled to the temporary waivers it requests.

27. Univision responds that, in contrast to Rincon's assertion, it does not receive the majority of its programming from foreign sources. Univision further argues that its programming decisions lie within the discretion granted licensees under Section 326 of Communications Act of 1934 (the "Act") and the First Amendment. It also argues that it has served the needs and interests of local audiences; and that Rincon has provided no legitimate basis for subjecting the transfer of control applications to a higher standard of review. BMPI, in its separate opposition, argues that Rincon has provided no evidence that grant of the requested temporary waivers is inconsistent with precedent or would disserve the public interest. Finally, BMPI states that Rincon has provided no evidence that it lacks the character qualifications to be a licensee.

28. Section 326 of the Act and the First Amendment to the Constitution prohibit any Commission actions that would improperly interfere with the programming decisions of licensees.[90] Thus, with certain limited exceptions not applicable here, licensees are afforded broad discretion in the scheduling, selection and presentation of programs aired on their stations, and the Commission will not substitute its judgment for that of the station regarding programming matters.[91] Because journalistic or editorial discretion in the presentation of news and public information is the core concept of the First Amendment's free press guarantee, licensees are entitled to the broadest discretion in the scheduling, selection and presentation of news programming.[92] Thus, with regard to news programming in particular, the Commission has repeatedly held that "[t]he choice of what is or is not to be covered in the presentation of broadcast news is a matter to the licensee's good faith discretion," and that "the Commission will not review the licensee's news judgments."[93]

29. With respect to the argument that Univision programming perpetuates a racial caste system in the Hispanic community, Section 1 of the Communications Act charges the Commission with ensuring that communications services are made available, "so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex."[94] It does not, by its terms, restrict a licensee's choice of programming. The choice of programming in this case falls within the discretion afforded licensees under section 326 of the Act and the First Amendment to the Constitution.[95]

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[89] *Rincon Reply*, at 8.

[90] 47 U.S.C. §326; U.S. CONST., amend. I.

[91] *See Entertainment Formats,* 60 FCC 2d 858 (1976), *recon. denied*, 66 FCC 2d 78 (1977); *FCC v. WNCN Listeners Guild*, 450 U.S. 582, 595-598 (1981) ("Commission has provided a rational explanation for its conclusion that reliance on the market is the best method of promoting diversity in entertainment formats.").

[92] *See, e.g., National Broadcasting Company v. FCC*, 516 F.2d 1101, 1112-1113, 1119-1120, 1172 (D.C. Cir. 1974), *cert. denied sub. nom. Accuracy in Media Inc. v. National Broadcasting Company,* 424 U.S. 910 (1976); *see also Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 124 (1973); *Hunger in America*, 20 FCC 2d 143, 150-51 (1969).

[93] *American Broadcasting Companies, Inc.*, 83 F.C.C.2d 302, 305 (1980). *See also Dr. Paul Klite*, 12 Com. Reg. (P&F) 79, 81-82 (MMB 1998), *recon. denied sub nom. McGraw-Hill Broadcasting Co.*, 16 FCC Rcd 22739 (2001) (denying petition that cited excess of news stories dedicated to "mayhem" and under-coverage of issues involving the environment, arts, science, education, poverty, AIDS, children and local elections).

[94] 47 U.S.C. § 151.

[95] While Rincon questions the taste of some of the telenovelas aired on Univision, it has not shown that any of the specific programming is indecent under the standards set forth in 18 U.S.C. § 1464 and section 73.3999 of the rules.

30. As discussed above, we find that granting BMPI the requested temporary waivers would serve the public interest. We do not agree that subjecting the instant transfer of control applications to a higher standard of review because of Univision's allegedly dominant position in the Spanish-language media market is either justified or consistent with section 309 of the Act, which determines the standard of review for all applicants.[96] The Commission addressed the argument that Univision dominates the Spanish-language media market, in our review and approval of its acquisition of HBC's radio stations in 2003. We see no reason to revisit that issue here. Rincon has provided no evidence that the transfer to BMPI will have an anticompetitive effect or that BMPI, as the new owner of Univision, will not operate Univision's radio and television stations in the public interest.

31. **Continuing Satellite Exemptions.** As part of the transfer of control applications, BMPI has requested authorization to continue operating Station WSUR-TV, Ponce, Puerto Rico, as a satellite of Station WLII(TV), Caguas, Puerto Rico, and to continue operating Station WFTY-TV, Smithtown, New York, as a satellite of Station WFUT-TV, Newark, New Jersey, pursuant to Note 5 of Section 73.3555 of the Commission's Rules. Station WSUR-TV has operated as a satellite of Station WLII(TV) for over 30 years and the Commission has renewed that status on several occasions, most recently on May 23, 2005.[97] Station WFTY-TV has operated as a satellite of WFUT-TV for more than 25 years, and it too has had its satellite status reauthorized by the Commission on several occasions, most recently in 2001.[98]

32. In *Television Satellite Stations*,[99] the Commission stated that applicants seeking to transfer or assign a television satellite station are entitled to a "presumptive" exemption from Section 73.3555(b) of the Commission's rules if the parent/satellite combination meets three criteria: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station.[100] Applications meeting these criteria, when unrebutted, will be viewed favorably by the Commission. If an applicant cannot qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis, and grant the application if there are compelling circumstances that warrant approval.[101]

33. *WSUR-TV, Ponce, Puerto Rico.* BMPI does not contend that satellite operation would comply with the presumptive standard. BMPI has, instead, attached the 2005 request from Univision of Puerto Rico, Inc., for a continuing satellite exemption, and argues that the same compelling circumstances that resulted in the approval of continued satellite status for Station WSUR-TV in 2005 continue to prevent the station from operating as a stand-alone facility.[102] According to the 2005 satellite showing, a mountainous "spine" separates the eastern and western portions of Puerto Rico that limits signal propagation, and effectively prevents stations serving San Juan from reaching the other population centers on the island. In addition to geography, the 2005 request states that Puerto Rico is served by a large

[96] 47 U.S.C. § 309.

[97] *Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, to Univision Communications, Inc.* (May 23, 2005). *See Milton S. Maltz*, 13 FCC Rcd 15527 (1998).

[98] *See WQHS-TV, Cleveland*, 16 FCC Rcd 10904, 10907 (MMB 2001); *Roy M. Speer*, 11 FCC Rcd 14147, 14165-66 (1996); *Wometco Enterprises, Inc.*, 55 RR 2d 1545 (MMB 1984); *Robert Rosen*, 83 FCC 2d 359, 370 (1980).

[99] *Television Satellite Stations,* 6 FCC Rcd 4212 (1991), subsequent citations omitted.

[100] *Id.* at 4213-4214.

[101] *Id.*

[102] *Applications for Transfer of Control*, at Exhibit 18-C, page 2. In addition to the 2005 showing, BMPI has submitted a "Puerto Rico Voice Study," and a December 23, 2004, letter from Brian E. Cobb, President of CobbCorp, LLC., to Clay C. Pendarvis, Associate Chief, Video Division.

number of television stations given the island's population. BMPI states that the unique terrain, as well as economic and competitive dynamics reflected in the Puerto Rico market, make parent/satellite combinations common in Puerto Rico and militate against Station WSUR-TV's operation as a stand-alone facility.[103]

34. While BMPI's showing does not meet our "presumptive" satellite standard, we believe that its showing is sufficient to justify continued satellite status for Station WSUR-TV under our *ad hoc* standard. We agree that, given the past history of the station, as well as the terrain and economic factors militating against successful full-service operation in Puerto Rico outside of San Juan, it does not appear likely that an alternative operator would be willing to operate Station WSUR-TV as a full-service station. There is no evidence that the geographic and market characteristics unique to Puerto Rico have changed since the May 23, 2005, determination that satellite status is warranted. We find that the unique terrain and economic obstacles to full-service operation in Puerto Rico constitute "compelling circumstances" warranting continuing satellite status for Station WSUR-TV. Thus, we conclude, continued operation of Station WSUR-TV as a satellite of Station WLII(TV) would serve the public interest.

35. *WFTY-TV, Smithtown, New York*. Univision is currently the ultimate parent of Stations WFTY-TV, Smithtown, New York, WFUT-TV, Newark, New Jersey, and WXTV(TV), Patterson, New Jersey, all of which are located in the New York, New York DMA. As to the first criterion of the presumptive standard, BMPI has submitted an engineering exhibit demonstrating that there is no overlap between the predicted City Grade contours of Stations WFUT-TV and WFTY-TV. Thus, the proposed satellite operation meets the first component of the presumption. With respect to the second criterion, applicants can use two different tests to demonstrate that an area is underserved. Under the "transmission test" a proposed satellite community of license is considered underserved if there are two or fewer television stations already licensed to it.[104] BMPI asserts that WFTY-TV is the only full service station licensed to Smithtown.[105] Accordingly, Smithtown qualifies as an underserved area, thereby satisfying the second component of the presumption.

36. With respect to the third criterion, an applicant must show that no alternative operator is ready and able to construct, or to purchase and operate, the proposed satellite as a full-service station.[106] BMPI states that "[Station] WFTY-TV's early history as a failed stand-alone station, its established history as a satellite and the highly competitive nature of the New York television market, together demonstrate that [Station] WFTY-TV is not capable of operating as a stand-alone facility, and, consequently, that no buyer stands ready and able to purchase and operate the station."[107] The engineering exhibit submitted by BMPI demonstrates that Station WFTY-TV's Grade B contour reaches the outskirts, but does not encompass New York City. The exhibit also demonstrates that much of the New York DMA lies outside Station WFTY-TV's Grade B coverage. BMPI further asserts that only 16.5% of households in the New York DMA are served by the station's Grade B signal.[108]

37. BMPI has also submitted a letter from Brian E. Cobb, President of CobbCorp, LLC, a media brokerage firm specializing in television station transactions. Mr. Cobb states that he has over 35 years of experience in the broadcast industry as an owner, manager and broker of broadcast properties. In addition,

[103] *Applications for Transfer of Control*, at Exhibit 18-C, Appendix B.

[104] *Television Satellite Stations*, 6 FCC Rcd at 4215.

[105] *Applications for Transfer of Control*, at Exhibit 18-C, pages 4-5.

[106] *Television Satellite Stations*, 6 FCC Rcd at 4215.

[107] *Transfer of Control Applications*, at Exhibit 18-C, page 5.

[108] *Id.*

he was a founding partner of Media Venture Partners, a nationally recognized media brokerage firm, and has served as the past President of the National Association of Media Brokers. Mr. Cobb asserts that he has been involved in the brokerage of more television stations than any other broker. According to BMPI, Mr. Cobb has rendered opinions in two prior transactions before the Commission regarding the viability of Station WFTY-TV as a stand alone station. Mr. Cobb states that Station WFTY-TV is unlikely to acquire a network affiliation due to the competitive dynamics of the New York market and its inability to adequately cover the New York DMA with its Grade B signal. According to Mr. Cobb, Station WFTY-TV's ability to survive as a stand-alone station without a network affiliation is slim given the competition for high quality programming in the New York market.

38. Based on our review of the materials submitted, we find that BMPI has provided information sufficient to authorize Station WFTY-TV's continued satellite operation under our *ad hoc* analysis. Station WFTY-TV has been a satellite of Station WFUT-TV for many years, and the Commission approved its continued operation as a satellite in 1996 and 2001. BMPI has submitted evidence demonstrating the improbability of finding a purchaser willing to operate the station on a stand alone basis. We find that Station WFTY-TV's history as a failed station and subsequent satellite status, along with the station's inadequate coverage of the New York DMA, constitute compelling circumstances justifying a continuing satellite exemption to the television ownership rule. We, therefore, find that the continued operation of Station WFTY-TV as a satellite of Station WFUT-TV would be in the public interest.

39. As discussed above, Univision, as well as BMPI investors PEP and THLP, will be in compliance with our ownership rules after a short period of time to divest and/or reduce certain ownership interests. As also discussed above, we find it to be in the public interest to continue our previous satellite exemptions to the broadcast television ownership rule after acquisition of Univision by BMPI. We find that the transaction otherwise complies with the Act and the Commission's rules, and find no evidence in the record that the proposed transaction will harm competition in any radio or television market. Indeed, we find that the transaction will benefit the public interest by encouraging investment in the broadcast industry.

40. **Children's Programming Issues.** UCC and NHMC have argued that Station WQHS-TV, Cleveland, Ohio, and Station KDTV(TV), San Francisco, California, by relying on the Spanish-language telenovelas *Complices Al Rescate*, *Vivan Los Ninos*, and *Amy, La Nina De La Mochila Azul*, failed to provide sufficient programming specifically designed to serve the educational and informational needs of children (core programming) throughout significant periods during the stations' most recent license terms, and that Univision Cleveland and KDTV have otherwise failed to demonstrate compliance with the Children's Television Act of 1990 ("CTA") as implemented in Section 73.671 of the Commission's rules.[109] In the *1996 Children's Television Order* revising the Commission's rules and policies governing children's programming, the Commission established a processing guideline of three hours of core programming a week.[110] It also established Commission rules setting forth six criteria for evaluating whether a program qualifies as "core programming:" (1) the program has serving the educational and informational needs of children ages 16 and under as a significant purpose; (2) the program is aired between the hours of 7:00 a.m. and 10:00 p.m.; (3) the program is a regularly-scheduled weekly program; (4) the program is at least 30 minutes in length; (5) the educational objective and the target child audience are specified in writing in the licensee's Children's Television Programming Report; and (6) instructions for listing the program as educational/informational, including an indication of the age group for which

[109] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394; 47 C.F.R. § 73.671.

[110] *Re Policies and Rules Concerning Children's Television Programming: Revision of Programming Policies for Television Broadcast Stations,* 11 FCC Rcd 10660, 10718 (1996) ("*1996 Children's Television Order*").

the program is intended, are provided by the licensee to publishers of program guides.[111]

41. As a result of these petitions, Commission staff reviewed FCC Form 398 Children's Television Programming Reports filed for all Univision licensees. A review of these reports indicates that Univision owns and controls 24 broadcast television stations, including WQHS-TV and KDTV(TV), that air programming provided by the Univision programming service, each of which aired the complained-of programming, and each of which are subject to the instant transfer of control.[112] This review further demonstrates that, beginning on or about September 30, 2004, until March 30, 2006, each of the 24 stations utilizing the Univision programming service claimed that the weekly broadcasts of the Spanish-language telenovelas *Complices Al Rescate* or *Vivan Los Ninos* were sufficient to meet the 3-hour core programming guideline. From March 30, 2006, until the last reporting period ending on December 31, 2006, these same 24 stations added the 30-minute program *Ultrachamos* to their core programming lineup, but otherwise retained their reliance on the telenovelas *Vivan Los Ninos* or *Amy, La Nina De La Mochila Azul* to meet the 3-hour processing guideline. *Ultrachamos*, which NHMC acknowledges is an educational and informational program directed to children, was scheduled for a twice-weekly airing during this period. Thus, a review of the Children's Television Programming Reports indicates a total of 116 weeks for each of the 24 stations (309 hours per station) potentially when the stations did not provide sufficient core programming to fulfill the 3-hour core programming guideline.

42. The Commission and Univision have negotiated the terms of a Consent Decree attached as Appendix D that resolves the children's programming issues raised in both proceedings. As part of the Consent Decree, Univision has agreed to make a contribution of $24,000,000 (24 million dollars) to the U.S. Treasury, and has further agreed to a detailed plan that will ensure future compliance with CTA and Section 73.617 of the Commission's rules. Based on our review of the record, we conclude that Univision has the basic qualifications to be a Commission licensee and that the Consent Decree contains appropriate terms and conditions to ensure that Univision provides programming specifically designed to serve the educational and informational needs of children in the future. Therefore, we conclude that there are no substantial and material questions of fact at issue and grant Univision's pending license renewal applications and deny the petitions to deny filed by UCC and NMHC, subject to the specific representations and commitments contained in the Consent Decree.[113]

IV. CONCLUSION

43. We have reviewed the proposed merger and related pleadings and conclude that grant of the applications as conditioned herein will comply with the Commission's rules. We conclude that the applicants are fully qualified and that grant of the transfer of control of Univision from its current shareholders to BMPI, subject to the conditions set forth in this order, will serve the public interest, convenience, and necessity.[114]

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[111] *Id.* at 10696. *See, also,* 47 C.F.R. § 73.671(c) (2005).

[112] The remaining Univision television stations air programming provided by the Telefutura programming service.

[113] Given our finding that the grant of the renewal application is warranted under Section 309(k)(2) of the Act because the consent decree contains appropriate terms and conditions, we need not determine whether Univision committed "serious violations" of our rules or violations that constituted "a pattern of abuse" for purposes of Section 309(k))(1).

[114] The Commission will grant a transfer of control application while a renewal application is pending so long as there are no basic qualification issues pending against the transferor or transferee that cannot be resolved in the context of the transfer proceeding, and the transferee explicitly assents to standing in the stead of the transferor in the pending renewal proceeding. *See Shareholders of CBS Corporation*, 16 FCC Rcd 16072, 16072-16073 (2001). The broadcast television license renewal cycle has yet to be completed, and petitions to deny license renewal

(continued....)

V. ORDERING CLAUSES

44. Accordingly, **IT IS ORDERED**, That the Petition to Deny of Rincon and Associates, Edward Rincon, and Conrad E. Gomez, and the August 23, 2006, letter of Theodore M. White, are **DENIED**.

45. **IT IS FURTHER ORDERED**, That the March 3, 2005, letter request of Univision Communications, Inc., is **DISMISSED AS MOOT**.

46. **IT IS FURTHER ORDERED**, That the requests for continued operation of Station WSUR-TV, Ponce, Puerto Rico, as a satellite of Station WLII(TV), Caguas, Puerto Rico, and Station WFTY-TV, Smithtown, New York, as a satellite of Station WFUT-TV, Newark, New Jersey, pursuant to the satellite exemption of Note 5 to Section 73.3555, 47 C.F.R. § 73.3555, **ARE GRANTED**.

47. **IT IS FURTHER ORDERED**, That the applications for consent to the transfer of control of licensee subsidiaries of Univision Communications Inc., as listed in the Appendices, are **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:** (1). The post-merger Univision shall come into compliance with the newspaper/broadcast cross-ownership rule in the affected markets within 6 months of consummation by Providence Equity Partners, Inc. either divesting its interest in Freedom Communications Holdings, Inc., or the post-merger Univision divesting those broadcast station licenses implicating the newspaper/broadcast cross-ownership rule in the Los Angeles, Phoenix, Fresno-Visalia, Harlingen-Weslaco-Brownsville-McAllen and Odessa-Midland markets. To ensure that the post-merger Univision no longer owns or controls properties implicating the newspaper/broadcast cross-ownership rule in the above markets following expiration of the 6-month period, the parties must ensure either that: (A) within 60 days of release of this order, PEP files evidence of a binding commitment to transfer its stock interest in Freedom to a divestiture trust, including a copy of the trust agreement, if full compliance with the newspaper/broadcast cross-ownership rule has not been achieved within 6 months of consummation; or (B) within 60 days of release of this order, Univision files applications seeking to assign those broadcast licenses implicating the newspaper/broadcast cross-ownership rule to a divestiture trust, including a copy of the trust agreement, which the Commission shall grant, if the applicants are so qualified and full compliance with the newspaper/broadcast cross-ownership rule has not been achieved within 6 months of consummation; (2). The post-merger Univision shall come into compliance with the radio/television cross-ownership and radio ownership rules in the affected markets within 6 months of consummation by Thomas H. Lee Partners, L.P. either divesting its interest in Cumulus Media LLC, or the post-merger Univision divesting those broadcast station licenses in the Dallas, San Francisco, and Houston-Galveston markets that exceed the numerical ownership limits of the radio/television cross-ownership and radio ownership rules. To ensure that the post-merger Univision no longer owns or controls properties in excess of the numerical ownership limit of the radio/television cross-ownership or radio ownership rules in the above markets following expiration of the 6-month period, the parties must ensure either that: (A) within 60 days of release of this order, THLP files evidence of a binding commitment to transfer its stock interest in Cumulus to a divestiture trust within 6 months of consummation, including a copy of the trust agreement, if full compliance with the radio/television cross-ownership rule or the radio ownership rule has not been achieved within 6 months of consummation; or (B) Univision files applications seeking to assign those broadcast licenses exceeding the numerical ownership limits of the radio/television cross-ownership rule and the radio ownership rule to a divestiture trust, along with a copy of the trust agreement, within 60 days of release of this order, which the Commission shall grant, if the applicants are so qualified, and full compliance with the radio/television cross-ownership rule or the radio ownership rule has not been achieved within 6 months of

(...continued from previous page)
applications of Univision-owned stations may yet be filed. BMPI has, however, specifically assented to standing in the stead of the pre-merger Univision in the pending renewal proceedings.

consummation; and (3) The post-merger Univision shall come into the radio ownership rule in the Albuquerque market by divesting 1 FM radio station within 6 months of consummation of the instant transaction. To ensure that the post-merger Univision no longer owns or controls properties in excess of the numerical ownership limit of the radio ownership rule following expiration of the 6-month period, Univision must file an application seeking to assign one broadcast FM license to a divestiture trust, along with a copy of the trustee agreement, within 60 days of release of this order, which the Commission shall grant, if the applicants are so qualified, and if full compliance with the radio ownership rule in the Albuquerque market has not been achieved within 6 months of consummation.

48. **IT IS FURTHER ORDERED**, pursuant to Section 4(i) of the Communications Act of 1934, as amended,[115] that the Consent Decree attached as Appendix D **IS ADOPTED**.

49. **IT IS FURTHER ORDERED,** That the Petitions to Deny filed by the Office of Communication of the United Church of Christ, Inc. and the National Hispanic Media Coalition **ARE DENIED**.

50. **IT IS FURTHER ORDERED** that, pursuant to Section 309(k) of the Communications Act of 1934, as amended, the application (File No. BRCT-20050601BER) of Univision Cleveland, LLC for renewal of license for Station WQHS-TV, Cleveland, Ohio, and the application (File No. BRCT-20060803APD) of KDTV License Partnership, G.P., for renewal of license for Station KDTV(TV), San Francisco, California, **ARE GRANTED.**

FEDERAL COMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[115] 47 U.S.C. § 154(i).

APPENDIX A

Broadcast Licenses to be Transferred from the Shareholders of Univision Communications, Inc., to Broadcasting Media Partners, Inc.

Licensee	Call Sign(s)	Facility ID Number(s)	File Number
KAKW License Partnership, L.P.	KAKW-TV, Killeen, TX KAKW-CA, Austin, TX	148 35882	BTCCT-20060718AIP
KDTV License Partnership, G.P.	KDTV(TV), San Francisco, CA KDTV-CA, Santa Rosa, CA	33778 18148	BTCCT-20060718AGY
KFTV License Partnership, G.P.	KFTV(TV), Hanford, CA KBTF-CA, Bakersfield, CA	34439 34438	BTCCT-20060718AHA
KMEX License Partnership, G.P.	KMEX-TV, Los Angeles, CA	35123	BTCCT-20060718AHF
KTVW License Partnership, G.P.	KTVW-TV, Phoenix, AZ KTVW-CA, Flagstaff, AZ KUVE-CA, Tucson, AZ K48GX, Tucson, AZ	35705 29464 78036 35704	BTCCT-20060718AHG
KUVI License Partnership, G.P	KUVI-TV, Bakersfield, CA	7700	BTCCT-20060718AHK
KUVN License Partnership, L.P.	KUVN-TV, Garland, TX KUVN-CA, Fort Worth, TX	35841 5319	BTCCT-20060718AIK
KUVS License Partnership, G.P.	KUVS-TV, Modesto, CA	58609	BTCCT-20060718AHL
KWEX License Partnership, L.P.	KWEX-TV, San Antonio, TX	35881	BTCCT-20060718AIM
KXLN License Partnership, L.P.	KXLN-TV, Rosenberg, TX	53847	BTCCT-20060718AIO
Spanish Television of Denver, Inc.	KTFD-TV, Boulder, CO	57219	BTCCT-20061718AHY
Telefutura Albuquerque LLC	KTFQ-TV, Albuquerque, NM	57220	BTCCT-20060718AJF
Telefutura Bakersfield LLC	KTFB-CA, Bakersfield, CA KABE-LP, Bakersfield, CA	18732 18747	BTCCT-20060718AHZ
Telefutura Boston LLC	WUTF-TV, Marlborough, MA	60551	BTCCT-20060718AJG
Telefutura Chicago LLC	WXFT-TV, Aurora, IL	60539	BTCCT-20060718AHR

Telefutura Dallas LLC	KSTR-TV, Irving, TX	60534	BTCCT-20060718AHS
Telefutura D.C. LLC	WFDC-TV, Arlington, VA	69532	BTCCT-20060718AJP
Telefutura Fresno LLC	KTFF-TV, Portersville, CA KTFF-LP, Fresno, CA	35512 23272	BTCCT-20060718AJJ
Telefutura Houston LLC	KFTH-TV, Alvin, TX	60537	BTCCT-20060718AHQ
Telefutura Los Angeles LLC	KFTR-TV, Ontario, CA	60549	BTCCT-20060718AHT
Telefutura Miami LLC	WAMI-TV, Hollywood, FL	60536	BTCCT-20060718AER
Telefutura Partnership of Douglas	KFTU-TV, Douglas, AZ	81441	BTCCT-20060718AJU
Telefutura Partnership of Flagstaff	KFPH-TV, Flagstaff, AZ	41517	BTCCT-20060718AHV
Telefutura Partnership of Floresville	K45DX, Floresville, TX	36118	BTCTTL-20060718AIB
Telefutura Partnership of Phoenix	KFPH-CA, Phoenix, AZ	2739	BTCTTA-20060718AJT
Telefutura Partnership of San Antonio	KFTO-CA, San Antonio, TX KNIC-CA, San Antonio, TX	39480 48837	BTCTTA-20060718AJR
Telefutura Partnership of Tucson	KFTU-CA, Tucson, AZ	53004	BTCTTA-20060718AHX
Telefutura Orlando, Inc.	WOTF-TV, Melbourne, FL	5802	BTCCT-20060718AJZ
Telefutura Sacramento LLC	KTFK-TV, Stockton, CA KEXT-CA, Modesto, CA KEZT-CA, Sacramento, CA	20871 70900 52891	BTCCT-20060718AJL
Telefutura San Francisco LLC	KFSF-TV, Vallejo, CA	51429	BTCCT-20060718AJX
Telefutura Tampa LLC	WFTT-TV, Tampa, FL	60559	BTCCT-20060718AHU
Telefutura Television Group,	KZOL-LP, Safford, AZ K21GC, Safford, AZ K16FB, Globe, AZ	128896 128900 127930	BTCCT-20060718AIC

Inc.	KDOS-LP, Globe, AZ	129078	
Univision Atlanta LLC	WUVG-TV, Athens, GA	48813	BTCCT-20060718AIT
Univision Cleveland LLC	WQHS-TV, Cleveland, OH	60556	BTCCT-20060718AIY
Univision New York LLC	WFTY-TV, Smithtown, NY WFUT-TV, Newark, NJ	60553 60555	BTCCT-20060718AJA
Univision Philadelphia LLC	WUVP-TV, Vineland, NJ	60560	BTCCT-20060718AJC
Univision Television Group, Inc.	KUVE-TV, Green Valley, AZ KUTH(TV), Provo, UT KNIC-TV, Blanco, TX KUTF(TV), Logan, UT[116] K45GX, Salt Lake City, UT[117]	63927 81451 125710 69694 72485	BTCCT-20060718AGO
WGBO License Partnership, G.P	WGBO-TV, Joliet, IL	12498	BTCCT-20060718AHM
WLII/WSUR License Partnership, G.P.	WLII(TV), Caguas, PR WSUR-TV, Ponce, PR	19777 19776	BTCCT-20060718AKC
WLTV License Partnership, G.P.	WLTV(TV), Miami, FL	73230	BTCCT-20060718AIG
WUVC License Partnership, G.P.	WUVC-TV, Fayetteville, NC WTNC-LP, Durham, NC	16517 70112	BTCCT-20060718AJD
WXTV License Partnership, G.P.	WXTV(TV), Paterson, NJ WFPA-CA, Philadelphia, PA	74215 74216	BTCCT-20060718AIH
KYCT-FM License Corp.	KDXX(FM), Benbrook, TX	21599	BTCH-20060718AJQ
KECS-FM License Corp.	KESS-FM, Lewisville, TX	57376	BTCH-20060718AJW
KESS-AM License Corp.	KFLC(AM), Fort Worth, TX	34298	BTC-20060718AJY
KHCK-FM License Corp.	KFZO(FM), Denton, TX	7040	BTCH-20060718AKA

[116] The FCC granted consent to assign the license for Station KUTF(TV), Logan, UT, from Logan 12, Inc., to Univision Television Group, Inc., on June 7, 2006. *See* File No. BALCT- 20060411ACB. The parties have yet to consummate the transaction.

[117] The FCC granted consent to assign the license for Station K45GX, Salt Lake City, UT, from Price Broadcasting, Inc., to Univision Television Group, Inc., on October 11, 2006. *See* File No. BALTTL-20060411ACC. The parties have yet to consummate the transaction.

KICI-FM License Corp.	KHCK-FM, Robinson, TX	57377	BTCH-20060718AKB
KLSQ-AM License Corp.	KLSQ(AM), Whitney, NV	36694	BTC-20060718AIJ
KLVE-FM License Corp.	KLVE(FM), Los Angeles, CA	35086	BTCH-20060718AIU
KTNQ-AM License Corp.	KTNQ(AM), Los Angeles, CA	35673	BTC-20060718
License Corp. No. 1	WAQI(AM), Miami, FL	37254	BTC-20060718ALB
License Corp. No. 2	WRTO-FM, Goulds, FL	37253	BTCH-20060718ALC
Tichenor License Corp.	KAMA(AM), El Paso, TX KBNA(AM), El Paso, TX KBNA-FM, El Paso, TX KBTQ(FM), Harlingen, TX KCOR(AM), San Antonio, TX KGBT(AM), Harlingen, TX KGBT-FM, McAllen, TX KLAT(AM), Houston, TX KPTI(FM), Crystal Beach, TX KPTY(FM), Missouri City, TX KQBU-FM, Port Arthur, TX KROM(FM), San Antonio, TX KRTX(AM), Rosenburg-Richmond, TX KAHL(AM), San Antonio, TX KXTN-FM, San Antonio, TX WOJO(FM), Evanston, IL	36948 67065 67066 67072 67069 67067 6662 67063 479 57806 25583 67071 57804 67070 67064 67073	BTC-20060718AKF
TMS License California, Inc.	KSQL(FM), Santa Cruz, CA KSOL(FM), San Francisco, CA KSOL-FM2, Sausalito, CA KSOL-FM3, Pleasanton, CA	70033 70032 70028 14485	BTCH-20060718AKV
Rawhide Radio, L.L.C.	KAJZ(FM), Llano, TX KLTO-FM, Cuero, TX	87996 25588	BTCH-20060718AKZ
Univision Radio Houston	KLTN(FM), Houston, TX	65310	BTCH-20060718AKE
Univision Radio License Corporation	KQBT(FM), Rio Ranch, NM KBBT(FM), Schertz, TX KBRG(FM), San Jose, CA KCOR-FM, Comfort, TX KVVF(FM), Santa Clara, CA KHOT-FM, Paradise Valley, AZ KHOT-FM1, Glendale, AZ KHOV-FM, Wickenburg, AZ KHOV-FM1, Constellation, TX KINV(FM), Georgetown, TV KIOT(FM), Los Lunas, NM KISF(FM), Las Vegas, NV	65256 3075 68839 25469 19532 59422 136351 29021 77422 55475 73117 28893	BTCH-20060718AET

	KJFA(FM), Albuquerque, NM KKMR(FM), Arizona City, AZ KKRG(FM), Santa Fe, NM KKSS(FM), Santa Fe, NM KLNO(FM), Fort Worth, TX KLNV(FM), San Diego, CA KLOK(AM), San Jose, CA KLQV(FM), San Diego, CA KQMR(FM), Globe, AZ KOMR(FM), Sun City, AZ KOND(FM), Clovis, CA KOVE-FM, Galveston, TX KRGT(FM), Indian Springs, NV KRGT-FM1, Las Vegas, NV KRCD(FM), Inglewood, CA KRCV(FM), West Covina, CA KSCA(FM), Glendale, CA KVVZ(FM), San Rafael, CA K265DI, Sausalito, CA KLLE(FM), North Fork, CA KRDA(FM), Hanford, CA WPPN(FM), Des Plaines, IL WVIV-FM, Highland Park, IL WVIX(FM), Joliet, IL WZAA(FM), Garden City, NY WZAA-FM1, New York, NY	16750 2740 7051 63928 41380 51515 41339 51164 22977 55913 39567 19091 11614 136175 1025 19088 24548 40136 43944 31716 26266 25053 74177 48449 30573 159388	
Univision Radio Puerto, Inc.	WKAQ(AM), San Juan, PR WKAQ-FM, San Juan, PR WUKQ(AM), Ponce, PR WUKQ-FM, Mayaguez, PR WKAQ-FM1, Juana Diaz, PR WUKQ-FM1, Ponce, PR WAEL(AM), Mayaguez, PR[118]	19099 19098 9352 54818 19100 127832 70686	BTC-20060718AGF
WADO-AM License Corp.	WADO(AM), New York, NY WCAA(FM), Newark, NJ	70684 46978	BTC-20060718AIW
WLXX-AM License Corp.	WRTO(AM), Chicago, IL	11196	BTC-20060718AIZ
WQBA-AM License Corp.	WQBA(AM), Miami, FL	73912	BTC-20060718AJI
WQBA-FM License Corp.	WAMR-FM, Miami, FL	61658	BTCH-20060718AJO

[118] The Commission granted consent to assign the license of Station WAEL(AM), Mayaguez, PR, from WABL, Inc., to Univision Radio Puerto Rico, Inc., on September 11, 2006. *See* BAL-20060616ABD. The parties consummated the transaction on November 17, 2006.

APPENDIX B

Microwave Licenses to be Transferred from the Shareholders of Univision Communications, Inc., to Broadcasting Media Partners, Inc.

Licensee	Call Sign(s)	Application Number
KDTV License Partnership, G.P	WNEK413 WNEK414	0002682082
KTVW License Partnership, G.P.	WPON213	002682090
KUVI License Partnership, G.P.	WQAA302 WQAA303	0002682098
KWEX License Partnership, L.P.	WPUK616	0002682183
Univision Network Limited Partnership	WPWE274	0002682192
Telefutura Network	WPXH328	0002682222
TMS License California, Inc.	WPOR915 WPOR916	0002682374
WLII/WSUR License Partnership, G.P.	WPOT652 WPSP380	0002682979

APPENDIX C

Earth Station Licenses to be Transferred from the Shareholders of Univision Communications, Inc., to Broadcasting Media Partners, Inc.

Licensee	Call Sign(s)	File Number
KAKW License Partnership, L.P.	E060016	SES-T/C-20060727-01275
KMEX License Partnership, G.P.	E040183 E020109	SES-T/C-20060719-01204 SES-T/C-20060719-01205
KWEX License Partnership, L.P.	KF28	SES-T/C-20060719-01206
KXLN License partnership, L.P.	E050180	SES-T/C-20060719-01208
Univision New York LLC	E000007	SES-T/C-20060719-01207
Univision Radio License Corporation	E030110	SES-T/C-20060719-01214
Univision Network Limited Partnership	E900570	SES-T/C-20060719-01213
WGBO License Partnership, G.P.	E040250	SES-T/C-20060719-01209
WLTV License Partnership, G.P.	E040044	SES-T/C-20060719-01210
WXTV License Partnership, G.P.	E2548 E030084	SES-T/C-20060719-01211 SES-T/C-20060719-01212

APPENDIX D

CONSENT DECREE

1. The Federal Communications Commission and Univision Communications Inc., for itself and on behalf of its direct and indirect subsidiaries that hold Commission authorizations, hereby enter into this Consent Decree for the purpose of resolving and terminating certain Inquiries pending before the Commission relating to possible violations of the Children's TV Laws by the Univision Stations.

2. For purposes of this Consent Decree, the following definitions shall apply:

(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq*.
(b) "Challenged Programs" means the programs *Complices Al Rescate*, *Vivan Los Ninos* and *Amy, La Nina De La Mochila Azul*, in whole or in part.
(c) "Children's TV Laws" means the requirements contained in Sections 303a and 303b of the Act (47 U.S.C. §§ 303a, 303b) and Section 73.671 of the Rules (47 C.F.R § 73.671).
(d) "Commission" or "FCC" means the Federal Communications Commission.
(e) "Effective Date" means the date on which the Commission releases the above-captioned order granting the applications to transfer control of Univision Communications, Inc., to Broadcasting Media Partners, Inc.
(f) "Educational/Informational Television Programming Advisory Committee" means a committee of outside professionals in the field of children's education.
(g) "Final Order" means the status of that portion of the above-captioned order adopting this Consent Decree after the period of administrative and judicial review has lapsed.
(h) "Inquiries" means the Commission's consideration of alleged violations of the Children's TV Laws as raised in the Petitions to Deny.
(i) "Parties" means the Commission and Univision collectively, and "Party" refers to the Commission and Univision individually.
(j) "Petitions to Deny" means those certain petitions, objections, complaints and/or other submissions or filings made with the Commission requesting that the Commission deny or designate for evidentiary hearing the license renewal application of any Univision Station on the basis of alleged violations of the Children's TV Laws, including, without limitation, the petition to deny filed August 31, 2005 by the Office of Communications of the United Church of Christ with respect to the license renewal application of WQHS-TV, Cleveland, Ohio, and the petition to deny filed November 1, 2006 by the National Hispanic Media Coalition with respect to the license renewal application of KDTV(TV), San Francisco, California.
(k) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
(l) "Univision" means Univision Communica
tions Inc. and all of its direct and indirect subsidiaries that hold authorizations issued by the FCC.
(m) "Univision Station" and "Univision Stations" means one or more television broadcast stations: (i) owned or operated by Univision; or (ii) that broadcast programming distributed or supplied by Univision.

I. BACKGROUND

3. Both the Commission and Univision acknowledge that any proceedings that might result from the Inquiries will be time-consuming and will require substantial expenditure of public and private resources.

4. In order to conserve such resources, and to promote compliance by Univision with the Children's TV Laws, the Commission and Univision are entering into this Consent Decree, in consideration of the mutual commitments made herein.

II. AGREEMENT

5. Univision understands that it is solely and ultimately responsible for whether the programming it purports to qualify as "core" educational/informational ("E/I") programming aired on the Univision Television Network ("Univision" or the "Network") and count towards the FCC processing guideline set out at Note 2 to 47 C.F.R. § 73.671 in fact complies with the definition of educational and informational television as set forth in 47 C.F.R. § 73.671(c).

6. The Parties agree that the provisions of this Consent Decree shall be subject to approval by the Commission, by incorporation of such provisions by reference in the above-captioned order granting the applications for transfer of control of Univision to Broadcasting Media Partners, Inc. Subject to that portion of the above-captioned order adopting this Consent Decree becoming a Final Order, Univision and the Commission agree to be legally bound by the terms and conditions of this Consent Decree.

7. The Parties agree that this Consent Decree shall become effective on the date on which the Commission releases the above-captioned order granting the applications for transfer of control of Univision to Broadcasting Media Partners, Inc. Upon release of the above-captioned order, this Consent Decree shall have the same force and effect as any other orders of the Commission, and any violation of the terms of this Consent Decree shall constitute a violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

8. Univision acknowledges that the Commission has jurisdiction over the matters contained in this Consent Decree and authority to enter into and adopt this Consent Decree.

9. The Commission shall terminate the Inquiries, dismiss with prejudice the Petitions to Deny, and grant any pending renewal application for a Univision Station (provided that: (i) Univision fully satisfies its obligation to pay the voluntary contribution as set forth in this Consent Decree and (ii) there are no issues other than those raised by the Inquiries that would preclude grant of any such application). From and after the Effective Date, the Commission shall not, either on its own motion or in response to any petition to deny or other third-party objection, complaint, or other information, initiate any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions, formal or informal, against Univision or any Univision Station, or any pending or future application to which Univision is a party (or which pertains to any Univision Station) (including, without limitation, any application for a new station, for renewal of license, for assignment of license, or for transfer of control), based in whole or in part on alleged violations of the Children's TV Laws prior to the Effective Date. Without limitation to the foregoing, the FCC shall not use the facts of this Consent Decree or the Inquiries or any similar allegations of violation by any Univision Station of the Children's TV Laws with respect to any broadcast occurring prior to the Effective Date, or the underlying facts, behavior, or broadcasts that relate to any of the foregoing, for any purpose relating to Univision or any Univision Station, and shall treat all such matters as null and void for all purposes.

10. Univision represents that it has adopted, is currently in the process of implementing, and agrees to abide by a compliance plan (the "Compliance Plan") for the purpose of ensuring adherence to the Children's TV Laws. A summary of that plan is set forth in the Attachment hereto. Univision agrees, to the extent it has not already done so, to implement this Compliance Plan within thirty (30) days of the

Effective Date and to keep such Compliance Plan in effect, where applicable, for two (2) years after the Effective Date. Univision further represents that beginning on the Effective Date, it will:

(a) with respect to any Univision Station owned or operated by Univision, not rely upon any of the Challenged Programs in order to demonstrate such station's compliance with the Children's TV Laws; and

(b) advise all Univision Stations that are not owned and operated by Univision that the Univision Network no longer considers any of the Challenged Programs to be sufficient to satisfy a television station's obligation to broadcast core educational/informational programming pursuant to the Children's TV Laws.

11. Within five (5) business days after the above-captioned order granting consent to transfer control of Univision to Broadcasting Media Partners, Inc., becomes a Final Order, without any modifications to this Consent Decree adverse to Univision or any Univision Station, Univision shall make a voluntary contribution to the United States Treasury in the amount of $24,000,000.00. The payment must be made by check, wire transfer or money order drawn to the order of the Federal Communications Commission. If Univision pays by check or money order, it must mail the check or money order to: Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Payment must reference NAL/Acct No. 0741420022 and FRN No. 0005794177. The Commission agrees not to seek any further voluntary or involuntary contributions or payments from Univision or any Univision Station to the United States Treasury for alleged violations of the Children's TV Laws with respect to programming broadcast prior to the Effective Date.

12. Univision waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree, provided no modifications are made to the Consent Decree adverse to Univision or any Univision Station. If the Commission, or the United States acting on its behalf, brings a judicial action to enforce the terms of this Consent Decree, Univision will not contest the validity of this Consent Decree or of that portion of the above-captioned order adopting this Consent Decree. If Univision brings a judicial action to enforce the terms of this Consent Decree or that portion of the above-captioned order adopting this Consent Decree, or both, neither the Commission nor the United States will contest the validity of this Consent Decree or that portion of the above-captioned order adopting this Consent Decree. Any collection action by the Commission or any other governmental entity to obtain the payment of the voluntary contribution to the United States Treasury provided for in Paragraph 11 of this Consent Decree shall be maintained solely against Univision. Nothing herein shall restrict Univision from challenging on any basis, any future enforcement action relating to the Children's TV Laws, other than actions to enforce this Consent Decree or that portion of the above-captioned order adopting this Consent Decree.

13. In the event that this Consent Decree is rendered invalid in any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

14. Univision hereby agrees to waive any claims they may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

15. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

16. This Consent Decree may be executed in counterparts.

FEDERAL COMMUNICATIONS COMMISSION

By: ____________________
Name: **Marlene H. Dortch**
Its: **Secretary**

UNIVISION COMMUNICATIONS INC.

By: ____________________
Name: **Robert V. Cahill**
Its: **Vice Chairman**

COMPLIANCE PLAN OF UNIVISION

Univision has implemented the Compliance Plan set forth below for the purpose of ensuring that the "core" E/I programming aired on Univision and counted towards the FCC processing guideline set out at Note 2 to 47 C.F.R. § 73.671 complies with the definition of educational and informational television as set forth in 47 C.F.R. § 73.671(c).

1. Univision will designate a Children's Television Compliance Officer ("Compliance Officer"), based at the Network and reporting to the Operating Manager of the Network, to oversee the acquisition, production, formatting and scheduling, or dissemination of information regarding, the E/I programs on the Network, and to ensure compliance with the FCC's related rules and policies. In performing these duties, the Compliance Officer will work with designated individuals within the Univision Legal Department and the Univision Television Group.

2. Within 60 days, Univision will establish the Educational/Informational Television Programming Advisory Committee. Univision will appoint the members, all of whom must be outside professionals in the field of children's education.

3. In acquiring E/I programming, Univision will make its own independent, good faith determination that each proposed program qualifies as E/I under the FCC's rules and policies then in effect. In order to make this determination:

   a. The Compliance Officer will consult with and seek the advice of the Educational/Informational Television Programming Advisory Committee regarding the E/I programming it is acquiring.

   b. The Compliance Officer will seek from the program producer or distributor a verification that a significant purpose of the program is to serve the E/I needs of children, and a written report as to the manner in which the program is designed to further that purpose. Both the Compliance Officer and Univision Legal Department will review the information provided. However, Univision will not rely solely on the report from that program producer or distributor in making its determination that the proposed program qualifies as "E/I."

   c. The Compliance Officer and the Univision Legal Department will review and discuss episodes of the program prior to any acquisition.

   d. If a children's program is produced in another country, the Compliance Officer will not base his or her decision with respect to that program on the fact that the program is considered to be educational in its country of origin, but will make an independent determination with respect to the FCC rules and policies in accordance with these procedures.

   e. No children's television program will be identified on the air as "E/I" if it has not been reviewed and approved through the process described herein.

4. The Educational/Informational Television Programming Advisory Committee will file a report with the Commission every 6 months regarding the Committee's evaluation of Univision's compliance with the FCC processing guideline set forth at Note 2 to 47 C.F.R. § 73.671.

5. The Compliance Officer will also make a determination as to the appropriate age range for each E/I program acquired, based upon his or her own review of the program episodes, as well as the information provided by the program producer or distributor and the opinion of any outside consultant utilized. The agreed upon age range will be used for purposes of V-Chip ratings and the information provided to publishers of program guides, and will be reported to the FCC by television stations owned or operated by Univision in FCC Form 398.

6. The Network Standards and Practices ("S&P") division of Univision will review each episode of an E/I program prior to airing that episode, to ensure that (1) the specific episode contains educational and informational content, and (2) if the program was produced in another country, there is no material in the episode that is not appropriate for the targeted age range or for audiences in the United States (i.e., due to different cultural sensitivities). Should any question arise with respect to the content of a particular episode, S&P will confer with the Compliance Officer and the Legal Department as necessary.

7. The Compliance Officer will work with the Legal Department and/or outside legal counsel to provide the information regarding each E/I program necessary for Univision stations to fully and accurately complete FCC Form 398.

8. Within ninety (90) days after the Effective Date, Univision will conduct training sessions to ensure that the Compliance Officer and all S&P employees fully understand the FCC rules and policies concerning E/I programming and this Compliance Plan. Such training will be overseen by the Univision Legal Department. All new employees in these positions will also receive such training promptly after they commence their duties. The Legal Department will inform the Compliance Officer and S&P of any changes to the FCC rules and policies with respect to E/I programming.

9. For three (3) years after the Effective Date, the Univision Legal Department will review episodes of the Network's E/I programming selected at random to ensure that they comply with FCC rules and policies.

10. Any complaint received with respect to a children's program on Univision will immediately be referred to the Compliance Officer, the Univision Legal Department, and the Educational/Informational Television Programming Advisory Committee.

STATEMENT OF
CHAIRMAN KEVIN J. MARTIN

Re: *In the Matter of Shareholders of Univision Communications, Inc. (Transferor) and Broadcasting Media Partners, Inc. (Transferee) For Transfer of Control of Univision Communications, Inc., and Certain Subsidiaries, Licensees of KUVE-TV, Green Valley, Arizona et al.*, BTCCT-20060718AGO *et al.*, NAL/Acct. No. 0741420022, FRN No. 0005794177

Today the Commission takes an important step in ensuring that broadcasters comply with their public interest obligations. This Order approves the transfer of Univision Communications Inc. (Univision) and resolves concerns about Univision's compliance with its obligation to serve the educational and informational needs of children.

Despite the enormous availability of video entertainment offered on cable, on satellite, and increasingly on the Internet, broadcast television still plays a unique role in our lives. It uses the public airways to deliver programming to every American home with a TV and is rooted in our local communities.

Broadcasters also enjoy special privileges such as carriage on cable systems. In exchange for their use of the airwaves and these other rights, broadcasters are responsible for serving the public, including the children in their audience. Both Congress and the Federal Communications Commission have taken steps to ensure broadcasters are mindful of the unique needs and vulnerabilities of children.

Indeed one of their greatest responsibilities is to show programming that serves to educate and inform children. Today's action reminds all broadcasters of this responsibility and obligation.

The Commission has said that broadcasters may fulfill this public interest obligation by airing three hours of programming each week that is primarily aimed at teaching children.

During the review of the proposed transaction, it came to the Commission's attention that the programs Univision had aired to meet this requirement on twenty-four of its stations for more than two years were telenovelas similar to teen soap operas and not educational in nature. To address the Commission's concerns about whether it had fulfilled its children's programming obligation, Univision has agreed make a contribution of $24 million to the U.S. Treasury. Univision has also committed to a compliance plan designed to ensure that the needs of the children and families in their audience are better served in the future.

The contribution is significant and appropriate. It reflects the seriousness with which the Commission takes its public interest obligations. These requirements are not optional and we expect broadcasters to comply with them. With these commitments by Univision, I believe this transaction is in the public interest.

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS
APPROVING IN PART AND CONCURRING IN PART**

Re: *In the Matter of Shareholders of Univision Communications, Inc., and Broadcasting Media Partners*

Today's item will most likely be remembered because it imposes a $24 million fine, far and away the Commission's largest ever. And indeed this amount is entirely appropriate; it makes clear that violating the Commission's media regulations cannot simply be dismissed as just another cost of doing business. I applaud the work of watchdog groups like the United Church of Christ and the National Hispanic Media Coalition in setting this important precedent, as well as Chairman Martin for his leadership on this issue.

Univision's attempt to pass off a Spanish-language soap opera as "core" children's programming is wholly indefensible. Given how little the FCC demands of its licensees these days when it comes to serving the public interest, those who fail to meet even our minimal standards deserve to be severely rebuked. Indeed, I hope that the FCC and watchdog groups will continue their work together to examine which programs other licensees claim as "core" children's programming. We need to take every step within our power to make sure that America's children and their parents actually receive the type of quality programming that they are guaranteed by the Children's Television Act. And of course, as I often point out, we wouldn't have to resort to fines or investigations at all if broadcasters were engaging in the self-regulation that is their solemn responsibility as trustees of the public airwaves.

Nevertheless, I concur in part to today's decision because I believe it fails to address—indeed, it conspicuously ignores—two critical aspects of the transaction before us. To begin with, as I noted in my joint dissent with Commissioner Adelstein to the 2003 transaction that greatly expanded Univision's media empire,[1] the Commission has never formally decided whether Spanish-language programming constitutes a separate market segment that must be analyzed in isolation from English-speaking programming. Then and now, I believe that we need to answer this threshold question before we decide important licensing questions concerning Spanish-language stations. So while I recognize that today's decision represents a transfer of control rather than additional consolidation, I still see a need for the Commission to conduct a thorough review of the consequences for Spanish-speaking Americans of the concentration of power that a massive conglomerate like Univision wields.

Secondly, I also think it is quite significant that today's transaction involves the transfer of 114 full-power TV and radio licenses from a public corporation—one whose stock is traded on the New York Stock Exchange and is included in the S&P 500—to five private equity firms. The Commission has never analyzed the consequences of this type of transaction for its ability to ensure that licensees protect, serve and sustain the public interest. I, for one, have some real questions about how the assumption of massive amounts of debt will affect a media company's stewardship of the airwaves. I also have concerns about how the shift from public to private ownership will affect the Commission's ability to determine which entities have practical control over licensees' editorial decisions and financial strategy. I hope that we will address these questions in a Commission-level report in the coming months. From what I can

[1] *Applications for Transfer of Control of Certain Subsidiaries of Hispanic Broadcasting Corporation to Univision Communications, Inc.*, FCC 03-218 (2003).

tell, the flood of private equity into media is just beginning. We need to get a handle—and quickly—on just what this means for the Commission's ability to do its job.

STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN
APPROVING IN PART & CONCURRING IN PART

Re: Shareholders of Univision Communications, Inc. and Broadcasting Media Partners, Inc.

Today's conditional approval to transfer control of more than 140 broadcast licenses from the shareholders of Univision Communication, Inc., to Broadcasting Media Partners, Inc. (BMPI) has the potential to represent much more than the transfer of ownership from a publicly-held company to private equity firms.[1] It is my hope and expectation that today's approval will mark the beginning of an enhanced commitment by Univision's new management to better serve the public interest and the needs of the Hispanic American community.

The current owners of Univision bear responsibility for a failure to serve the public interest that will result in the largest fine ever assessed in the history of the Commission. The record-setting contribution of 24 million dollars reflects the gravity of the alleged failure to provide sufficient programming specifically designed to serve the educational and informational needs of children pursuant to the Children Television Act of 1990 (CTA). Based on my conversations and knowledge of BMPI, I would certainly not expect to see further breaches on their watch. Indeed, I am heartened by their commitment to serve the Hispanic American community. BMPI now has an historic opportunity to serve this fast-growing community with greater responsiveness than we have seen.

That this alleged violation occurred weekly over a two-year period on 24 stations across this country is indicative of the Commission's own failure to actively enforce broadcasters' public interest and children programming obligations. While I believe that this multi-million dollar contribution and Univision's designation of a corporate compliance officer and creation of an advisory committee are steps in the right direction, the Commission must continue vigorous enforcement to ensure that broadcasters comply with federal law. To date, the Commission has failed to live up to its own obligations to implement and enforce the CTA.

In September 2004, the Commission promised American children and families that it would "issue a Public Notice in the near future seeking comment on whether broadcasters are complying with the letter and intent of the CTA in terms of, among other things, the amount and quality of core children's programming being provided."[2] The Commission further promised to "conduct a review of broadcaster compliance with CTA and our rules and to issue a report," which would provide Commission guidance about which programs would qualify as educational.[3] Hitherto, the Commission has failed to release the Public Notice, conduct the compliance review, and issue a report. Significantly, the Commission has even failed to address alleged CTA violations that were filed one year *before* the complaint against

[1] While I dissented from the Commission's September 22, 2003, decision to approve the merger of Hispanic Broadcasting Corporation and Univision Communications, Inc, which created the entity that is being transferred today, I note that today's *Order,* as conditioned, does not result in harmful concentration of media ownership.

[2] Children's Television Obligations of Digital Television Broadcasters, *Report and Order and Further Notice of Proposed Rule Making*, 19 FCC Rcd 22943, ¶ 67 (2004).

[3] Id.

Univision.[4] The Commission needs to enforce its programming rules to protect children much more diligently.

Today's *Order* also provides BMPI six months after consummation of the underlying transaction to come into compliance with the newspaper/broadcast cross-ownership, the radio/television cross-ownership, and the local radio ownership rules in nine markets. While I concur in our decision to grant these temporary waivers, I am skeptical about Commission enforcement. The Commission historically has failed to enforce the terms of its temporary waivers and, as a result, parties have simply failed to take the step necessary to demonstrate a good faith effort to comply with our ownership limits. In the instant case, the Commission should make clear that we will not grant any extensions absent extraordinary circumstances. I am committed to ensuring that BMPI comes into compliance within the time period allotted by the temporary waivers.

Accordingly, I approve the merger in part and concur in part with today's decision. I am hopeful that this transfer of control will serve the public interest, particularly the Hispanic community. Furthermore, I applaud the Commission's effort to enforce our children's programming requirements and stress that we must be proactive in ensuring that all broadcasters comply with these public interest requirements in the future.

[4] Petition to Deny the Applications for Renewal of Broadcast Station Licenses for Paxson Washington License, Inc., WPXW, Manassas, VA: File No. BRCT-20040527AGS; Fox Television Stations, Inc., WDCA, Washington, D.C.: File No. BRCT-20040527AKL.

STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE

Re: In the Matter of Shareholders of Univision Communications, Inc. and Broadcasting Media Partners

The Children's Television Act of 1990 requires the Commission to ensure that television broadcast station licensees provide programming specifically designed to serve the educational and informational needs of children. I take this congressional charge very seriously, especially given the prominent role that television plays in our children's lives. The action we take today underscores my – and, indeed, the entire Commission's – commitment to families all across America, who demand and deserve quality children's programming. I am pleased that, by entering into the attached Consent Decree and, particularly, by implementing a new, company-wide compliance plan, Univision has demonstrated that it takes its obligation to provide such programming seriously, too.