**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA, United States Department of Justice Antitrust Division Litigation III Section 325 7th Street, N.W., Suite 300 Washington, D.C. 20530, Plaintiff, v. **UNIVISION COMMUNICATIONS INC.**, 1999 Avenue of the Stars, Suite 3050 Los Angeles, California 90067, and **HISPANIC BROADCASTING CORPORATION**, 3102 Oak Lawn Avenue, Suite 215 Dallas, Texas 75219, Defendants.	Civil Action No. 1:03CV00758 Judge: Rosemary M. Collyer Filed: 3/26/2003

COMPLAINT FOR INJUNCTIVE RELIEF

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the proposed acquisition of Hispanic Broadcasting Corporation by Univision Communications Inc., and to obtain other relief as appropriate.

1. Univision Communications Inc. ("Univision") proposes to acquire Hispanic Broadcasting Corporation ("HBC") pursuant to an Agreement and Plan of Reorganization

entered into by the defendants on June 11, 2002.

2. Defendants Univision and HBC are two of the nation's largest Spanish-language media companies. Univision also owns a significant equity interest in Entravision Communications Corporation ("Entravision"), another leading Spanish-language media company, and has significant governance rights over Entravision, including the right to place representatives on Entravision's Board of Directors and the right to veto important strategic business decisions.

3. Following the proposed acquisition, Univision would own HBC, the nation's largest Spanish-language radio broadcaster, and would also have a significant interest in Entravision, HBC's principal competitor in Spanish-language radio in many markets.

4. Due to Univision's ownership interest and governance rights in Entravision, and its right to veto important decisions, the proposed acquisition, if consummated, will substantially lessen competition in the sale of advertising time on Spanish-language radio stations in many geographic areas throughout the United States in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

I. Jurisdiction and Venue

5. This Complaint for Injunctive Relief is filed by the United States pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

6. Univision and HBC sell products and services in interstate commerce. The Court has jurisdiction over the subject matter of this action and jurisdiction over the parties pursuant to Section 12 of the Clayton Act, 15 U.S.C.§ 22, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

7. Univision and HBC transact business in the District of Columbia and are found within the District. Venue is therefore proper in this Court pursuant to 15 U.S.C. § 22 and 28 U.S.C. § 1391(b) and (c).

II. Defendants and the Proposed Transaction

8. Univision, a Delaware corporation with its principal place of business in Los Angeles, California, is the largest broadcaster of Spanish-language television programming in the United States, consisting of two broadcast networks, Univision and Telefutura, and one cable channel, Galavision. It also has several other Spanish-language media operations, including Internet sites and services, music recording, distribution, and publishing.

9. HBC is a Delaware corporation with its principal place of business in Dallas, Texas. It currently owns or operates more than sixty radio stations in eighteen geographic markets in the United States. Nearly all of HBC's stations are broadcast in Spanish. In 2001, its revenues were over $240 million, nearly all of which were generated from the sale of Spanish-language advertising time. HBC's other businesses include a marketing group and interactive online services.

10. Entravision, which is not a party to the complaint, is a Delaware corporation with its principal place of business in Santa Monica, California. It currently owns or operates approximately fifty-five radio stations in twenty-four geographic markets in the United States. Nearly all of Entravision's radio stations are broadcast in Spanish. In 2001, Entravision's total revenues were just under $209 million, with radio revenues of over $65 million. Entravision also owns or operates forty-nine television stations as a major affiliate for Univision's two broadcast networks. Entravision's other businesses include outdoor advertising and publishing.

11. On June 11, 2002, Univision agreed to acquire 100 percent of the voting securities of HBC in a transaction originally valued at approximately $3.5 billion. After the acquisition was announced, Univision made certain changes to its corporate relationship with Entravision. Univision's representatives on Entravision's Board of Directors resigned, and Univision announced that it would convert its equity stake to a nonvoting class of shares. Univision did not announce its intention to relinquish other rights it holds over important Entravision business decisions.

III. Relevant Product Market

12. Companies that operate radio stations, like HBC and Entravision, sell advertising time to local and national advertisers in each area where they operate those stations. HBC and Entravision each negotiates these transactions individually with each local and national advertiser, and each price reflects the circumstances of that negotiation as well as the preferences of each advertiser.

13. Many local and national advertisers purchase radio advertising time because they consider it preferable to advertising in other media to meet their specific needs. They may consider radio advertising time to be more cost-effective than other media to reach their target audiences. They may also consider radio advertising to be more efficient than other media to reach their target audiences.

14. Many local and national advertisers in the geographic markets identified below also consider Spanish-language radio to be particularly effective or necessary to reach their desired customers, particularly Spanish-speaking consumers who listen predominantly or

exclusively to Spanish-language radio. These advertisers consider Spanish-language radio, either alone or as a complement to other media, to be the most effective way to reach their target audience, and do not consider other media, including non-Spanish-language radio, to be a reasonable substitute. These advertisers would not turn to other media, including radio that is not broadcast in Spanish, if faced with a small but significant increase in the price of advertising time on Spanish-language radio, or a reduction in the value of the services provided.

15. Thus, in the geographic markets identified below, there are a significant number of advertisers that consider Spanish-language radio advertising to be a particularly effective advertising medium, and the provision of advertising time on Spanish-language radio stations to these advertisers is a relevant product market within the meaning of Section 7 of the Clayton Act.

IV. Relevant Geographic Markets

16. HBC and Entravision compete directly against each other to provide advertising time on Spanish-language radio in the following Metro Survey Areas: Dallas, Texas; El Paso, Texas; Las Vegas, Nevada; McAllen-Brownsville-Harlingen, Texas; Phoenix, Arizona; and San Jose, California. A Metro Survey Area (MSA) is a geographical unit for which Arbitron, a company that surveys radio listeners, furnishes radio stations, advertisers, and advertising agencies in a particular area with data to aid in evaluating radio audience size composition.

17. Advertising placed on radio stations in an MSA is aimed at reaching listening audiences in that MSA, and radio stations outside that MSA do not provide effective access to these audiences. If there were a small but significant increase in radio advertising prices within an MSA, advertisers would not switch enough purchases of advertising time to stations outside

the MSA to render the price increase unprofitable.

18. Thus, the Dallas, El Paso, Las Vegas, McAllen-Brownsville-Harlingen, Phoenix, and San Jose MSAs ("Overlap Markets") are each relevant geographic markets within the meaning of Section 7 of the Clayton Act.

V. Harm to Competition

A. *Competition in Spanish-Language Radio Markets*

19. HBC and Entravision are vigorous competitors in the provision of Spanish-language radio. HBC and Entravision stations in the Overlap Markets compete head-to-head to reach Spanish-language audiences and, for many local and national advertisers buying time on Spanish-language radio in the Overlap Markets, they are the next best substitutes for each other. For example, HBC and Entravision heavily promote their stations against each other in order to gain ratings. In addition, they program and format their stations with an eye toward attracting listeners from each other. They compete aggressively to acquire stations and closely monitor each other's competitive position in the Overlap Markets.

20. Most importantly, HBC and Entravision compete vigorously for radio advertisers who seek to reach the Spanish-language audience. During individualized rate negotiations, advertisers who desire to reach Spanish-language listeners can benefit from this competition by "playing off" HBC stations against Entravision stations to reach better terms.

21. Spanish-language radio in the Overlap Markets is highly concentrated, with HBC and Entravision's combined share of advertising revenue in the various geographic markets ranging from approximately 70% to approximately 95% of the relevant market. Using a measure of market concentration called the Herfindahl-Hirschman Index ("HHI"), explained in Appendix

A annexed hereto, concentration in these markets will increase significantly as a result of the acquisition, with post-acquisition HHIs from approximately 5500 points to approximately 9200 points, well above the 1800 threshold at which the Department normally considers a market to be highly concentrated.

B. *Univision's Ownership and Rights over Entravision*

22. Univision has a significant and long-standing relationship with Entravision. At the time the acquisition was announced, Univision owned an approximate 30% equity and seven-percent voting stake in Entravision. In addition, Univision, as the sole holder of Entravision's Class C common stock, has significant governance rights with respect to Entravision. It has the right to place two representatives on Entravision's Board of Directors, although Univision's representatives resigned after the acquisition was announced. Univision also has the right to veto important Entravision business decisions. Entravision's First Amended and Restated Bylaws provide Univision the right to veto Entravision's (a) issuance of equity, (b) incurrence of debt at certain levels, and (c) acquisitions or dispositions of assets valued at greater than $25 million. Entravision's First Amended Certificate of Incorporation also provides Univision the right to approve any Entravision (a) merger, consolidation, business combination or reorganization, (b) dissolution, liquidation, or termination, and (c) transfer of any FCC license with respect to a television station that is an affiliate of Univision.

23. Univision also has a long-term affiliation agreement with Entravision whereby Entravision broadcasts Univision programming from Univision's two networks on forty-nine television stations. As part of this affiliation agreement, Univision serves as Entravision's sole representative for the sale of television advertisements sold on a national basis.

C. ***This Acquisition Will Substantially Lessen Competition in the Relevant Markets.***

24. Entravision is one of only a few Spanish-language radio companies competing with HBC in each Overlap Market, and the two companies are significant competitors against each other. Upon consummation of the proposed acquisition of HBC by Univision, Univision will have complete ownership and control of the assets and holdings of HBC and a significant ownership interest in Entravision, as well as the right to control competitively significant Entravision decisions.

25. Univision's ownership of its approximately thirty-percent equity interest in Entravision will substantially reduce competition between Univision/HBC and Entravision. The two companies compete directly against each other in the Overlap Markets where Entravision and HBC are two of very few alternatives in the relevant product market. With its substantial partial-ownership interest in Entravision, Univision/HBC will have reduced incentives to compete against Entravision for advertisers seeking a Spanish-language radio audience. This is because Univision/HBC, as a significant owner of Entravision stock, will benefit even if a customer chooses Entravision rather than HBC. HBC will compete less aggressively to gain customers at the expense of Entravision, resulting in an increase in prices for a significant number of advertisers in the Overlap Markets. The Overlap Markets are highly concentrated, and these advertisers will find it difficult or impossible to "buy around" Univision/HBC and Entravision, *i.e.*, to effectively reach their targeted audience without using Univision/HBC and Entravision radio stations.

26. Univision's rights to veto Entravision issuance of equity or debt, or acquisitions

over $25 million give it a significant degree of control or influence over Entravision and will likely impair Entravision's ability and incentive to compete with Univision/HBC. Univision's right to veto any Entravision acquisition of assets over $25 million would allow Univision/HBC to prevent Entravision from purchasing any significant radio station assets in a market where HBC competes. A Univision veto on the issuance of new stock or debt could leave Entravision without access to capital it may need to make acquisitions or otherwise compete effectively with HBC. Entravision has frequently taken actions in the past that have been subject to these Univision veto rights and, because its plans call for more growth through acquisition, Entravision is likely to need Univision's approval on many occasions in the future. The existence of these veto rights lessens competition even if they are not exercised, because Entravision will have the incentive to constrain its normal competitive behavior against Univision/HBC in order to ensure that Univision/HBC provides the necessary approval.

27. Entry of new Spanish-language radio stations into the relevant geographic markets would not be timely, likely, or sufficient to mitigate the competitive harm likely to result from this acquisition. Entry could occur by obtaining a license for new radio spectrum or by reformatting an existing station. However, new radio spectrum acquisition is highly unlikely, as spectrum is a scarce and expensive commodity. Likewise, reformatting by existing stations is unlikely to defeat a price increase by Univision/HBC or Entravision. Radio stations are unlikely to undertake a format change solely in response to small but significant increases in price being charged to advertisers by a firm such as Univision/HBC, and in the unlikely event of such a format change, would be unlikely to attract enough listeners to provide suitable alternatives to the merged entity.

VI. Violation Alleged

28. The effect of Univision's proposed acquisition of HBC will be to substantially lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

29. Unless restrained, the acquisition will have the following effects, among others:

a. competition in the sale of advertising time on Spanish-language radio stations in the Overlap Markets will be substantially lessened, and

b. prices for advertising time on Spanish-language radio stations in the Overlap Markets will likely increase and services will likely decline.

VII. Relief Requested

30. The United States requests: (a) adjudication that Univision's acquisition of HBC would violate Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing consummation of the proposed acquisition; (c) an award to the United States of the costs of this action; and (d) such other relief as is just and proper.

Dated this 26th day of March 2003.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES

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APPENDIX A
DEFINITION OF HHI

The term “HHI” means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$). The HHI takes into account the relative size and distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 are considered to be moderately concentrated, and markets in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise significant antitrust concerns under the Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines.