

TESTIMONY OF

**MANUEL ABUD
VICE PRESIDENT, GENERAL MANAGER
KVEA-TV, CHANNEL 52, LOS ANGELES, CALIFORNIA
ON BEHALF OF TELEMUNDO**

**LEGISLATIVE HEARING ON A STAFF DISCUSSION DRAFT OF
THE DTV TRANSITION ACT OF 2005**

BEFORE THE

**SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
COMMITTEE ON ENERGY AND COMMERCE**

MAY 26, 2005

Summary

The work of this Committee ultimately will determine to what extent Spanish language television viewers continue to have critical access to free over-the-air Spanish language television in the digital era. Nationally, 43 percent of households where Spanish is the primary language spoken rely on over-the-air television exclusively. At the same time, digital television technology has failed to make significant inroads into the Hispanic community. If Congress fails to produce a final DTV transition plan that focuses on extending the benefits of DTV to all consumers, Spanish language television viewers will be subject to a disproportionate share of the resulting harm. In short, we really need the Congress to get the DTV transition right.

The Staff Draft reflects a sincere effort to strike a balance between the need to bring the digital television transition to a close while protecting the overwhelming majority of consumers who still only have analog television sets. Telemundo supports a proposed hard cut-off date for ending analog broadcasts. The December 31, 2008 deadline in the Staff Draft is more reasonable and realistic than earlier dates. We also support the Staff Draft's receiver and retailer labeling requirements, as well as the requirement that cable operators must carry broadcast stations on their basic tier of service after analog broadcasting ceases.

There are, however, several critical omissions from the Staff Draft that must be addressed to ensure that the principal benefits of digital television technology are not denied to Telemundo and its audience.

First, the Staff Draft fails to require cable operators' carriage of Spanish language broadcasters' multicast programming services. Failure to include multicast carriage as part of a digital must-carry requirement will deny one of the most important benefits of DTV to Spanish language viewers: unprecedented amounts of new and innovative locally originated, community-oriented programming, as well as increased news and political coverage, weather reporting, and critical public safety information. Failure to require multicast must-carry will hinder the development of new programming choices available to over-the-air and cable consumers alike, as well as inhibit broadcasters' ability to hold down cable rates by offering competitive programming alternatives to cable.

Second, the Staff Draft fails to include transition assistance to consumers who only watch television over-the-air, and who may ultimately lose access to free television in the absence of the assistance necessary to acquire a digital-to-analog converter box. Television is a lifeline for many Americans. We cannot permit television screens to go black in the homes of poor people or those who are most dependent on broadcast television.

Finally, the Staff Draft's down-conversion provisions are crafted in a manner that threatens to eliminate access to Spanish language broadcast signals for the majority of Spanish-speaking cable subscribers who do not have DTV receivers. Specifically, in its current form, a cable operator would be permitted to discriminate in favor of major broadcast stations in choosing to provide an analog feed. Nearly all Telemundo stations are must carry stations. This makes us unacceptably vulnerable to being shut off from our analog cable viewers unless cable operators decide to give all analog cable subscribers a set top box. Don't bet on that. To correct this vulnerability of our analog cable viewers to disenfranchisement, the Staff Draft's "carry one, carry all" down-conversion requirement should be modified to give real meaning to its term – if any one digital broadcast signal it carries is down-converted, even one carried under retransmission consent, *all* local digital broadcast signals should be down-converted.

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Mr. Chairman, Congressman Markey, and Members of the Subcommittee, my name is Manuel Abud, and I am the Vice President and General Manager of KVEA-TV, Channel 52, Telemundo's station in Los Angeles, California. I thank you for the opportunity to testify today on behalf of Telemundo regarding the Digital Television Transition Act of 2005 Staff Draft.

My appearance before you today is not simply as a Telemundo executive or even a broadcaster. I am also testifying in my capacity as a member of the Hispanic-American community, and as a Spanish language speaker. Many members of my community speak Spanish as their primary language, and are dependent on Spanish language over-the-air broadcasting as their primary source of news and local information. We are the "go to" source for news and information for the Spanish speaking community. The work of this Committee ultimately will determine to what extent Spanish language television viewers continue to have critical access to free over-the-air Spanish language television in the digital era.

Households where Spanish is the primary language are far more likely to rely on over-the-air television than other households. Nationally, 43 percent of households where Spanish is the primary language spoken watch over-the-air television exclusively. At the same time,

analysis of the consumer market reveals that digital television technology has failed to make significant inroads into the Hispanic community. Nielsen data indicates that the use of DTV receivers in Hispanic households nationally is the lowest among all consumer groups. As a result, if Congress fails to produce a final DTV transition plan that focuses on extending the benefits of DTV to all consumers, Spanish language television viewers will be subject to a disproportionate share of the resulting harm. In short, we really need the Congress to get the DTV transition right.

In plain terms, getting it right means ensuring that Spanish-speaking consumers have access to the revolutionary benefits that digital television offers, especially High Definition television programming and multicasting. It also means that our audiences are not disenfranchised, whether they rely on over-the-air broadcasting, cable, or satellite for their television. The disruption and cost accompanying the DTV transition must be kept to a minimum.

The Staff Draft

Tested against these core principles, there is much to commend in the Staff Draft. There also is room for substantial improvement as the legislative process moves forward.

The Staff Draft reflects a sincere effort to strike an important balance between the need to bring the digital television transition to a close while protecting the overwhelming majority of consumers who still only have analog television sets. Telemundo supports a hard cut-off date for ending analog broadcasts. The December 31, 2008 date in the Staff Draft provides more time than previous public discussion suggested might be the case, which will help ease the burden of the transition on consumers. Similarly, the receiver and retailer labeling requirements included in the Staff Draft are critical for improving consumer education about digital television and DTV

products, as well as publicizing the impending shut off of analog television. The Staff Draft requires cable operators to retransmit High Definition broadcast programming sent by a broadcast station electing must carry in the same format – High Definition – to its cable subscribers. Moreover, digital broadcast signals must be carried on the basic tier of cable service. Both provisions are good for consumers because they ensure receipt of one of the principal benefits of DTV technology – the glorious video and audio quality of High Definition – at basic cable rates.

Unfortunately, there are several critical omissions from the Staff Draft that have the net effect of denying a principal benefit of digital television technology to Telemundo and its audience, your constituents, and also pose a serious threat of disenfranchising Spanish-speaking viewers across America. I urge this Committee to address these omissions before the final bill is introduced.

First, the Staff Draft fails to require cable operators' carriage of Spanish language broadcasters' multicast programming services. Failure to include multicast carriage as part of digital must-carry will deny one of the most important benefits of DTV to Spanish language television viewers and will hinder the development of new programming choices available to over-the-air and cable consumers alike.

Second, the bill fails to include transition assistance to consumers who only watch television over-the-air, and may ultimately lose access to all television in the absence of a subsidy to finance the cost of purchasing a digital-to-analog converter box. Television is a lifeline for many Americans. We cannot permit television screens to go black in the homes of poor people who are in many ways the most dependent on broadcast television.

Finally, the bill's down-conversion provisions do not go far enough. If a cable operator chooses not to provide an analog feed of any must carry station's broadcast programming, a Spanish speaking analog cable subscriber likely will be left without access to Spanish language broadcast signals unless they make substantial expenditures for set-top boxes or new digital television receivers. Since the vast majority of Spanish-speaking cable subscribers own analog television sets, not digital receivers, they will be injured disproportionately.

Cable Carriage of Multicast Programming Is Essential

Digital television enables broadcasters to offer four or more programming channels in place of their one analog channel. Multicasting, as this is known, enables broadcasters to offer a competitive alternative to cable programming that should help keep cable rates down.

Multicasting also allows broadcasters to serve their local communities better than ever before by providing multiple streams of locally-produced or community-oriented programs, including but not limited to: "hyper-local" news, covering smaller parts of large metropolitan areas, programming that covers local political issues and candidates; newscasts that serve specific segments of the local market; local events, including school and amateur sports activities; and local weather, traffic, and emergency information.

In this time of heightened alert against terrorism, local broadcast stations are the first providers of emergency news and information to the public concerning not only actual or potential terror threats to public safety, but also local emergency incidents such as chemical spills, dangerous storms, floods, escaped prisoners, and similar incidents of urgent import. Multicast channels permit the rapid dissemination of such information in much greater detail by enabling stations to target information for particular communities on particular streams.

Beyond emergency or local information, the increasingly diverse character of American society makes the availability of Spanish language local television programming critically important in permitting Spanish language speaking residents to become better integrated into and function more effectively in the communities in which they reside. Multicasting increases the ability of broadcast stations to transmit Spanish language programming to Spanish speaking populations within their service area. Absent a meaningful must-carry requirement that includes multicast carriage, this digital dividend will be sacrificed.

Telemundo and other broadcasters cannot avail themselves of the powerful benefits of multicasting in the marketplace absent cable carriage of multicast programming channels, which is not required by the Staff Draft. Broadcast television in any language is advertiser supported, and our ability to attract advertising dollars is directly tied to the number of viewers we have the opportunity to attract to our programming. The majority of all television viewers watch broadcast television via cable or satellite, and if those services do not carry multicast programming services the overwhelming majority of television viewers will not have the opportunity to see them.

As a result, the fundamental basis upon which must-carry has been traditionally supported by Congress – the preservation of free over-the-air television – is critical in the context of multicasting. Absent congressional support for multicast must-carry, Telemundo and other Spanish language broadcasters will have no economic model upon which to rely to offer Spanish language viewers new and innovative multicast programming services. As Congress is requiring millions of consumers to invest in new digital equipment in order to watch television, it will simultaneously be depriving them of one of the most important benefits they will receive for their purchases. Failure to include multicast must carry in a final DTV transition bill strikes at

the core of the critical balance between reward and risk upon which the success of the DTV transition rests.

A Subsidy Is Needed for Consumers To Purchase Digital-to-Analog Converters

The Staff Draft is notable for not including a subsidy program for households relying exclusively on over-the-air broadcasting to support the purchase of digital-to-analog converter boxes. While Telemundo is not suggesting any particular concept, Telemundo does support the inclusion of a consumer assistance program in this legislation to ensure that households exclusively reliant on over-the-air broadcasting are not literally left in the dark once analog television is shut off. As I previously noted, failure to include a consumer assistance program in the bill will have a disproportionate impact on Spanish language households who are not currently purchasing DTV products and will be hit hardest on December 31, 2008. A subsidy program to defray the costs of a digital-to-analog converter box is a necessity in any mandated end to the digital television transition.

The “Carry One, Carry All” Downconversion Requirement Should Apply to All Broadcast Signals, Not Just Those of Must Carry Stations

Finally, the Staff Draft’s attempt to prevent disenfranchisement of analog cable subscribers is a good start but needs to do more for cable consumers. Under the Staff Draft, if a cable operator voluntarily downconverts a must carry broadcast station’s digital broadcast signal into analog format, it must provide an analog feed of all other must carry stations. The problem arises, however, if the cable operator chooses only to provide an analog feed of very strong broadcast stations which have elected retransmission consent rather than must carry. In that situation, the cable operator is under absolutely no obligation to provide an analog feed of any must carry stations. Nearly all Telemundo stations are carried pursuant to must carry. We are unacceptably vulnerable to losing our analog cable subscribers unless cable operators decide to

give all analog cable subscribers a set top box. Don't bet on that. To correct this vulnerability of our analog cable viewers to disenfranchisement, the Staff Draft's "carry one, carry all" down-conversion requirement should be modified to be true to its term: if a cable operator downconverts any one broadcast signal to analog, regardless of whether that signal is carried pursuant to a retransmission consent agreement or must carry, it should be required to downconvert all other broadcast signals.

Cable industry leaders have repeatedly stated that they do not want to disrupt analog cable subscribers as the DTV conversion occurs. All we are saying, to quote President Reagan, is: "Trust, but verify."

I appreciate the opportunity to appear before you today, and share with you concerns of Spanish speaking Americans who have much to gain but also much to lose in the digital television transition. I stand ready to work with each Member of this Committee to ensure that final digital television transition legislation serves the interests of our Nation and of all television viewers.