



BACKGROUND INFORMATION ON ESTRELLA TV

- Liberman Broadcasting is a leading Spanish-language, minority-owned broadcasting company that operates Estrella TV, one of America's most popular and fastest-growing Hispanic television networks;
- Launched in 2009, Estrella TV has grown to include 37 broadcast affiliates and built a catalog of more than 7,500 hours of programming now being distributed by the company worldwide;
- Estrella TV offers a unique aggregation of Spanish-language programming - including national and local news shows, political shows, sports, variety, talk, reality, drama, music, and comedy programming – primarily produced in Liberman Broadcasting's Burbank, CA headquarters by an overwhelmingly Hispanic workforce.

KEY FACTS OF THE FILING

- In recent years, Estrella TV has emerged as a top competitor to the country's largest Spanish-language programmers, including Comcast-owned network Telemundo;
- For example, in Los Angeles, the nation's largest Hispanic media market, Estrella TV's local station KRCA's live plus same-day, Monday-Friday, 7-11 PM average rating in the key adults 25-54 demographic during the sweeps period (November 2015) was second only to Univision's KMEX in the Spanish-language market, and ahead of Telemundo's KVEA, Unimas' KFTR, Azteca's KAZA, and MundoMax's KWHY;
- Similarly, in Dallas-Ft. Worth, Estrella TV's local station KMPX tied with Telemundo's KXTX in these same metrics in November 2015 for second place behind Univision's KMEX, far eclipsing Unimas' KSTR, Azteca's KAZD, MundoMax's KFWD;
- Importantly, in both Los Angeles and Dallas-Ft. Worth, Estrella TV is broadly distributed by the key local cable and satellite providers, thus allowing it to compete on a roughly equal footing with Telemundo;



- Due to Estrella TV's ratings success, it has been picked up for distribution by virtually all major multi-channel video distributors (MVPDs) in the country including Time Warner Cable, Charter Communications and AT&T/DIRECTV. Major television station groups including Sinclair Broadcasting, TEGNA, Nexstar and Hearst Communications have established affiliate stations in local markets nationwide;
- While Comcast's MVPD competitors and station groups have embraced Estrella TV due to its ratings successes, Comcast stands alone in going the opposite direction: for well over a year it has systematically refused Estrella TV's efforts to reach a carriage agreement which would allow for it to be distributed in a manner equivalent to Comcast's distribution of its own Telemundo and NBC Universo networks;
- Not only has Comcast refused to provide equitable distribution for Estrella TV, it has also upped the ante by unlawfully demanding that the company relinquish the digital rights to its own content as a condition for carriage. These rights are very valuable as Liberman Broadcasting controls the universal rights to its programming, which allow it to be distributed across all platforms;
- Comcast's posture toward Estrella TV and its sharp incongruence with that of its fellow MVPDs can only be explained by the fact that Comcast (and only Comcast) owns Spanish-language networks that compete directly with Estrella TV for the same viewers and the same advertising dollars;
- Comcast's discrimination against Estrella TV has had real market consequences. Due to Comcast's refusal to reach a reasonable carriage agreement, Estrella TV's local stations are now blacked out in three major markets – Denver, Houston and Salt Lake City. Predictably, ratings for those stations have collapsed, while Comcast-owned Telemundo has benefitted.
- Section 616 of the Communications Act, adopted by Congress in 1992, specifically prohibits vertically integrated MVPDs from discriminating against unaffiliated video programming vendors. Comcast's actions toward its competitor, Estrella TV, in favor of its affiliated networks Telemundo and NBC Universo constitute a classic example of precisely the sort of behavior Section 616 is meant to prohibit;



- In addition, the 2011 merger conditions imposed by the FCC on Comcast when it acquired NBCUniversal deliberately echoed Section 616 emphasizing that Comcast could not discriminate against competing video programmers, as it is now doing to Estrella TV;
- Comcast's clear and blatant violation of the Program Carriage rules and the merger conditions are the backdrop for Liberman Broadcasting's filing with the FCC;
- Should the FCC find that Comcast has violated the Program Carriage rules, it can enjoin Comcast from continuing on that course and require Comcast to distribute Estrella TV on terms and conditions no less favorable than those upon which it distributes Telemundo;
- Importantly, this filing is significant not only to the future of Estrella TV and its efforts to provide more and alternative choices for Hispanic viewers, including daily news programming that runs opposite the competition's novelas, but also for independent programmers of all types. If Comcast is allowed to so transparently discriminate against a direct competitor in the Spanish-language market, it is only a matter of time before it extends that abusive behavior to other independent programmers (if it is not doing so already). The result would benefit Comcast but diminish choice for viewers and visit meaningful harm on the public's interest in a dynamic, diverse media marketplace.

INITIAL FCC MEDIA BUREAU DECISION

- Notwithstanding the merits of the case, on August 26, the FCC Media Bureau dismissed LBI's complaint on a technical issue related to standing. Specifically, the Media Bureau ruled that television broadcasters are not "video programming vendors" and therefore do not have standing to bring complaints under the Communications Act's regime that otherwise prohibits vertically integrated cable companies like Comcast from, among other things, discriminating against unaffiliated video programmers;
- The Bureau's decision ignored and conflicted with Congress's clear statutory intent to permit television broadcasters to bring such complaints;



- The Bureau's decision also ignored and conflicted with Commission precedent, where the Commission shortly after the passage of Section 616 clarified that television broadcasters are "video programming vendors," and thus have standing to bring charges of discrimination against vertically-integrated cable companies.

PETITION FOR RECONSIDERATION

- On September 26, LBI filed a Petition for Reconsideration (PFR) of the Media Bureau's order on grounds that it is incorrect as a matter of law. In its PFR, LBI explains that the Media Bureau:
 - Ignored the statutory definition of "video programming," which expressly includes programming provided by broadcast stations, in coming to the conclusion that broadcasters cannot be "video programming vendors;"
 - Ignored a critical Commission precedent – a report to Congress submitted shortly after the passage of Section 616, which stated that broadcast networks are "video programming vendors;"
 - Wrongfully rejected the FCC's statement before the U.S. Court of Appeals for the D.C. Circuit in a prior complaint that "video programming vendor" includes broadcasters;
 - Improperly concluded that the must carry and retransmission consent rights provided to broadcasters under Sections 614 and 325 of the Communications Act are mutually exclusive from the rights provided by Section 616;
 - Unjustifiably concluded that LBI does not offer its programming "for sale" when there is no dispute that LBI sought fees from Comcast for the distribution of its programming;
 - Erred in failing to consider LBI's claims against Comcast in markets where Estrella TV is provided on a non-broadcast basis.
- After making these and other arguments, the PFR concludes that LBI has demonstrated standing to bring the complaint under both Section 616 and the



Comcast-NBCU merger order, and that LBI has made a prima facie case of violation by Comcast of Section 616 and the merger order. The Bureau, therefore, should designate Estrella TV's complaint for hearing before an FCC Administrative Law Judge, who can review the charges of discrimination against Comcast and order the required remedies.