

Press freedom at stake in Univision case before FCC

by Carlos Wesley

The request filed by *Executive Intelligence Review* with the Federal Communications Commission (FCC) on April 29, to reopen for review the transfer of control of Univision to a group that includes the Venezuelan brothers Gustavo and Ricardo Cisneros, is receiving media coverage across the the United States and in Ibero-America. In order to ensure a full airing of the issues involved in this case, we reprint below the full text of the new filing, only omitting references to exhibits.

History of the case

Under the George Bush administration, in 1992, the FCC allowed the transfer of Univision, the largest U.S. Spanish-language network, without holding a single public hearing. The sale of the network by Hallmark to PTI, a consortium made up of Jerrold Perenchio, a former partner of Norman Lear, Mexican television magnate Emilio Azacarraga, and the Cisneros brothers was opposed by nearly every significant Hispanic organization in the United States and by *EIR*. But the objections were completely ignored by the Bush administration FCC.

In fact, the commission, which at the time was chaired by Republican Alfred Sikes, allowed the half-billion-dollar transaction—the largest in the history of U.S. broadcasting—to sail through without the commissioners even meeting to discuss it.

“There is more proof that Cisneros misinformed the Federal Communications Commission,” reported Venezuela’s *Diario de Caracas* in its April 30 coverage of *EIR*’s new filing on the case. “According to the motion presented by *EIR* Editor Nora Hamerman, there is new evidence that Gustavo Cisneros ‘knowingly and intentionally misinformed the

Commission,’ ” added the headline of the Venezuelan daily.

The previous evening, Radio Caracas Television (RCTV) also quoted from the release issued by *EIR* News Service on the motion to the FCC, noting that among the new evidence presented was the fact that money from the defrauded Banco Latino of Venezuela, “possibly including drug money,” was used by the Cisneros brothers to buy their share of Univision; that Univision’s director, Ricardo Cisneros, is currently a fugitive from Venezuela, where there is an arrest warrant out for him for his part in defrauding Banco Latino; that Cisneros has again resorted to manipulating the judicial system to censor his political opponents, the most recent instance being the ongoing persecution of Alejandro Peña Esclusa, leader of the Venezuelan Labor Party and a collaborator of Lyndon LaRouche.

Cisneros, who in 1985 succeeded in having *Narcotráfico, S.A.*, the Spanish-language edition of *EIR*’s book *Dope, Inc.*, banned in Venezuela, has now resorted to the illegal use of wiretaps and of confidential surveillance reports against Peña Esclusa (see story, p. 47). Both the Venezuelan television network RCTV and *Diario de Caracas* reported that former U.S. Attorney General Ramsey Clark has written to the Venezuelan government regarding the persecution against Peña Esclusa.

The *EIR* filing was also reported by Spanish-language television stations in Texas and California. The largest newspaper from one of the several South American nations where the Cisneros family has recently obtained control over a television channel, requested more information for a planned article on the *EIR* motion, as did several print and other news outlets in the United States.

EIR files before FCC 'to reopen' Cisneros takeover of Univision

What follows is abridged from EIR's Motion to Reopen and To Enlarge the Issues filed before the Federal Communications Commission in Washington, D.C. on April 29, over the signature of Editor Nora Hamerman. EIR's original letter to the FCC urging them to reject the Univision sale appeared in our July 3, 1992 issue. In addition to EIR, many U.S. Hispanic organizations also protested the takeover. References to exhibits and case law have been taken out for space reasons.

Summary

The Commission's September 23, 1992, Memorandum Opinion and Order denied the Informal Objection of the *Executive Intelligence Review* (hereinafter "EIR") on the grounds:

"[t]he Review seeks to impugn the integrity of the principals of Venevision, Ricardo and Gustavo Cisneros, but the material submitted point to no convictions of law violations or even pending criminal proceedings."

The Commission's finding was premised upon the sworn declaration under penalty of perjury of one Gustavo Cisneros which accompanied Perenchio Television Inc.'s ("PTI") Consolidated Opposition filed July 1, 1992 as Attachment D thereto. The Cisneros affidavit, however, contained serious misrepresentations of material fact which the Commission explicitly relied upon in granting the application of PTI. Cisneros declares:

"The allegations by EIR are preposterous, utterly false, and deserving of no credibility whatever. . . . When I first heard about the allegations contained in *Dope Inc.*, which attempts to implicate . . . members of my family . . . in an international drug conspiracy, I considered the personal attack on my character, reputation and honor to be serious by itself."

EIR alleged that Mr. Cisneros, including *Venevision International* (part owners in PTI and Perenchio Communications, Inc. ("PCI") the parent company to the Buyer PTI), 1) engaged in questionable "methods of silencing" his oppo-

nents and 2) he and his companies had "possible links to international financial circles involved in laundering dirty money."

EIR has recently obtained new evidence which shows beyond a reasonable doubt that its allegations were right-on-the-mark, and Gustavo Cisneros, without candor, knowingly and intentionally misinformed this Commission. This new evidence, documented below, indicates that:

- Banco Latino¹ money, possibly including laundered drug money, provided the Cisneroses the financial means to purchase their part ownership in PCI and PTI, the latter set up for the purpose of buying the largest Spanish-language media network in the United States, i.e. *Univision*;

- Ricardo Cisneros, who is now a fugitive from Venezuelan justice and a member of the boards of both PCI and PTI, clearly is of questionable character, yet maintains his interest in the largest Spanish-language media network in the United States; and

- Censorship of political opponents, by any means necessary, is a pattern and practice of the Cisneros family empire, Diego Cisneros Organization, which is in violation of the U.S. Constitution's guarantee to freedom of press and speech.

This kind of corruption for self gain—at any expense—is precisely the danger Congress clearly contemplated curtailing when it enacted the law prohibiting aliens, a foreign government or its representatives from owning American media companies.

EIR herewith submits its request, based upon the new evidence detailed below, that the Commission reopen and enlarge the issues concerning the applications in this case. The Commission must revoke its approval of the PTI application, or at a minimum hold hearings to investigate these extremely grave, documented charges. In particular, Ricardo Cisneros and Gustavo Gómez López, both reportedly in the United States as fugitives from Venezuelan justice, should be subpoenaed for testimony on these issues. Not to do so, is tantamount to this Commission condoning the equivalent of an Ivan Boesky of the media—in this case Ricardo Cisneros using his ill-gotten gains—to purchase the largest Spanish-language TV network in the United States and simultaneously present programming from his Venezuelan media empire, *Venevision*, to American viewers. This is clearly *not* in the public interest of the United States.

Grounds for motion to reopen and to enlarge the issues

EIR moves to reopen the record and to enlarge the issues against PTI and PCI to include the following:

- (a) Whether PCI and PTI misrepresented the facts or lacked basic candor in advising the FCC that the sources of its funds for the purchase of *Univision* Inc. were from legitimate sources;

- (b) Whether Gustavo Cisneros for PTI misrepresented

the facts or lacked basic candor in advising the FCC in his sworn declaration that *EIR*'s allegations were "preposterous, utterly false, and deserving of no credibility whatever"; and

(c) Whether, in view of the foregoing, PCI and PTI basically qualified to become the owner of *Univision* Inc.

Timeliness

This motion is timely filed with the Review Board on April 29, 1994, within 15 days' receipt of the documents that constitute the "new evidence" on which this motion is based. *EIR*'s informal objection letter was dismissed by the Commission on September 23, 1992, without granting a public hearing on the issues raised by *EIR* or the many other petitioners who opposed the PTI applications. Nor did the Commission require any further documentation from PCI or PTI as to their financial arrangements with *Venevision* or *Televisa* despite *EIR*'s allegation that there were possible links to "dirty money laundering" concerning the Cisneros's interests.²

Statement of facts—new evidence

A. Banco Latino funds, possibly including drug dollars used by Cisneros to buy Univision

Over the last fifteen days, *EIR* has obtained from Venezuela numerous facsimile copies of news articles and reports of television broadcasts which strongly indicate that the source of funds used by *Venevision International* to purchase its share of ownership in PCI and PTI for the purchase of *Univision* in the United States came from the now-defunct Banco Latino, and that a substantial part of cash flow through Banco Latino was reportedly laundered drug money. The facts as they have just been revealed are as follows:

1. On April 8, 1994 the Venezuelan newspaper *El Mundo* ran a letter from former Banco Latino president, Gustavo A. Gómez López. Mr. Gómez López states upon his personal knowledge that Ricardo and Gustavo Cisneros "purchased *Univision* with credits that were leveraged totally by Banco Latino, because Provincial [bank] pulled out at the last minute and we had to rush in to cover the cash portion the [Cisneroses] never put up."

This perfidy had been hinted at earlier by Mr. Carlos Ball on February 4, 1994 in a *Wall Street Journal* op-ed titled, "Bank's Failure Signals End of Cronyism in Venezuela." Mr. Ball is a Venezuelan journalist and the president of *Agencia Interamericana de Prensa Economica*, an economic news and syndication service for Spanish-language newspapers, according to the *Wall Street Journal*. He writes:

"Soon after the second military coup against the Pérez administration on Nov. 27, 1992, the Cisneros conglomerate started to reduce its exposure in Venezuela. On Dec. 4, 1992,

it borrowed \$55 million in order to buy—in partnership with Mexico's Emilio Azcarraga—the largest Spanish-language television network in the U.S., *Univision*."

2. On April 14, 1994 the Venezuelan newspaper *El Nacional* ran a column by Andrés Galdo in which he states, "Banco Latino was used to launder the dollars of Colombian drug traffickers."³ Galdo also reports that the bank's chief source of revenue was "drug dollars." Mr. Galdo's information is also not speculation, but is from his personal knowledge. He states in his column, "for many years I handled public relations for Banco Latino, but my relations with Banco Latino and the Cisneros Group ended many years ago. . . ."

3. Subsequent to Mr. Ball's February 4th column noted above, on March 4th the *Wall Street Journal* ran another op-ed, this one by Mr. Thor Halvorssen. The title of his op-ed in The Americas column is, "The Price of Vigilance in Venezuela's Banking Community." The *Journal* reports that Mr. Halvorssen was the Venezuelan Presidency's Commissioner of Anti-Narcotic Affairs, with the rank of ambassador, and that he is currently a regional director of the International Society for Human Rights based in Frankfurt, Germany. He, too, writes about the trail of dirty money to Banco Latino:

"In 1992, the Venezuelan Senate, inspired by U.S. Senate investigations, created an Anti-Money-Laundering Commission. In March of that year I was appointed special overseas investigator for that commission. Among the banks I was investigating was the now-defunct Banco Latino. It seemed inconceivable to me that this bank could move the enormous amounts of money that it did without being involved in some kind of money-laundering scheme. I alerted the U.S. Federal Reserve and the New York District Attorney's Office of my suspicions."

After he had begun his investigation he reports:

"In September 1993, an informant gave me a brief with incontrovertible evidence of money-laundering in Venezuelan banks. The largest amount of evidence concerned Banco Latino. Shortly after I received that evidence, an attempt was made on my life. . . ."

Clearly, it is not in the public interest of the United States and its citizens to have its media companies be the laundry for drug dollars. Based upon these personal public admissions by Mr. Gómez López and Mr. Andrés Galdo, the Commission should now issue subpoenas for their respective testimony. Moreover, based upon these revelations, the Commission should also issue subpoenas for Ricardo and Gustavo Cisneros.

What is ironic and yet disquieting about all this, is that the Commission, by not requiring further documentation from the Buyer (PTI) concerning the source of funds for the purchase of *Univision*, may well within weeks to months be faced with a situation where a foreign government, Venezuela, will be a part owner of an American media network. It has been widely reported in Venezuela that the government,



On May 3, Venezuelans queued outside an exchange house in downtown Caracas to trade bolivars into dollars. The collapse of the Banco Latino swindled over a million Venezuelan citizens out of their savings. Did some of this money go into buying Univision?

which is desperately trying to make restitution to the more than one million Banco Latino depositors who were defrauded, may “confiscate” the Venezuelan and foreign assets of all former Banco Latino officers. One such officer is Ricardo Cisneros. The March 4th edition of *El Mundo* in Venezuela reports on these developments.

Such confiscation is all the more likely due to the fact, as reported in the Venezuelan daily *2001*'s April 25th edition, that “currently mortgaged to Provincial bank are both *Venevision* as well as *Televen* and it is now taken as a given that the Diego Cisneros Organization will not be able to make the payment commitments” on the mortgage. Thus it is also a strong possibility that the Provincial bank will assume ownership of *Venevision*. The Provincial bank is an unknown entity to the Commission and were this chain of events to unfold, appropriate disclosure information would have to be requested by the Commission to ensure that *Univision*'s new partner meets the standards and requirements of United States laws.

B. Ricardo Cisneros—a fugitive from justice

In Gustavo Cisneros's declaration in support of PTI's applications, he took umbrage at the fact that *EIR* had documented his family's ties to international drug money laundering circles in the book, *Dope, Inc.* and its Spanish-lan-

guage version *Narcotráfico, S.A.* But more than that, he swore to this Commission that *EIR*'s allegations are “preposterous” and “utterly false.” Such a misrepresentation to this Commission, merely to ensure his own financial gain, should not be countenanced.

At the very time Gustavo Cisneros executed his sworn declaration in this case (June 29, 1992) disclaiming *EIR*'s charges of his ties to drug money laundering circles abroad, the Venezuelan Senate announced the creation of an Anti-Money Laundering Commission. A bank under suspicion and investigation was Banco Latino. See the Halvorsen *Wall Street Journal* article referenced *supra*.

On or about March 2, 1994, after the collapse of Banco Latino, a Venezuelan court issued arrest warrants for 83 officers of the bank. Ricardo Cisneros was one of those for whom an arrest warrant was issued. He and the others are charged with illegal appropriation of depositors' funds, fraud, conspiracy to defraud and falsification of balance sheets. The charges have been widely reported in Venezuela, and *EIR* attaches news coverage of them from the April 12th edition of the magazine *Elite* and the March 3rd issue of *El Nacional*.

Rather than facing his accusers and clearing his “good” name, Ricardo Cisneros has remained a fugitive from his own country's laws. Some sources have reported that Ricardo

Cisneros is in Miami, Florida. His brother, Gustavo, the affiant in this action, has even gone to the expense and trouble of publishing a self-serving "Fact" sheet about why his brother, Ricardo, cannot submit to his own country's laws.

Again, how can it possibly be in the public interest to have a fugitive from justice maintaining ownership in the largest Spanish-language media network in the United States and stature accompanying such a position? He may be innocent. But as long as he refuses to submit to his country's law, American viewers will rightly wonder about his possible guilt.

C. Censorship—by any means

EIR's June 18, 1992 informal objection letter strongly urged the Commission to take a look at the pattern and practice of censorship exercised by Gustavo Cisneros against his political opponents or competitors. Specifically, *EIR* charged:

"[Cisneros]'s manipulation of both the press and legal system of his country, Venezuela, to achieve the illegal confiscation and banning of a book which published an unfavorable view of the powerful Cisneros family and its vast fortune. Such activities are hardly consonant with upholding the principles of freedom of the press and freedom of expression which the United States holds dear."

The Commission's dismissal of this issue focused on "the Review's concern" that the Cisneroses "successfully sought to enjoin in Venezuela the distribution of a book." But *EIR* used the example of the censorship of its book as but one example of the lengths to which the Cisneroses will go to silence an opponent.

Unknown to *EIR* at that time, was the extreme censorship the Banco Latino-Cisneros-Gómez López Group would use to silence an opponent. Mr. Thor Halvorssen in the *Wall Street Journal* op-ed mentioned above, recounts the torture, false imprisonment and attempts on his life he suffered when he attempted to uncover the dirty money laundering operations of the Banco Latino and other banks.

Cisneros attempted silencing of Peña Esclusa

Starting in mid-April, breaking developments in Venezuela are confirming with a vengeance that Perenchio Television, Inc.'s partners, Gustavo and Ricardo Cisneros, engage in the most abhorrent police-state practices to silence anyone who dares to criticize them, and thus, are not fit to run the major Spanish-language television network in the United States. The new information reveals that the Cisneroses are using illegal wiretaps, illegal police surveillance reports, fabricating evidence, suborning testimony, and manipulating the court system to prevent exposure of their questionable business practices. The Cisneros's brutal tactics have been decried by prominent citizens and legal experts from around the world, including the United States. The facts of their

most recent efforts of censorship are as follows:

1. In what is fast becoming a scandal of international proportions, on April 21, 1994, Venezuela's *Diario de Caracas* reported that the names of 42 journalists, editors and executives from the dailies *El Nacional*, *Ultimas Noticias*, *El Mundo*, *Diario de Caracas*, the television network *Radio Caracas Television (RCTV)*, and the radio network *Radio Caracas Radio (RCR)* were listed in the court records in the case of the secretary general of the Venezuelan Labor Party ("PLV"), Alejandro Peña Esclusa. Mr. Peña Esclusa is a long-time political activist and friend and associate of U.S. economist and former presidential candidate Lyndon LaRouche.

The Peña Esclusa case has been described as the "most serious attack on freedom of speech there has been in Venezuela," by Marcel Granier the publisher of *Diario de Caracas*, according to the April 23rd issue of that Venezuelan daily.

2. Peña Esclusa was indicted on April 18, 1994, and ordered arrested on April 22 by the 42nd Criminal Court's interim judge, Guillermo Heredia, on the basis of a private lawsuit instigated by the Cisneros Organization: the plaintiff is a Cisneros employee; the plaintiff's attorney, Ricardo Koesling, is also the lawyer for a couple of the fugitive directors of Ricardo Cisneros' defrauded Banco Latino who sit on the board of other Cisneros-owned companies; the titular judge is reportedly a confidant of Koesling, and all the witnesses who testified against the defendant during the proceedings are employed by the Cisneros Organization.

In fact, the outlines for the bill of indictment were detailed in a document issued *beforehand*, in English, by PTI partner Gustavo Cisneros, and which began to circulate in the United States and elsewhere in late March-early April. The Cisneros pamphlet is titled, "The Truth About the Banco Latino Crisis and the Cisneros Group of Companies in Venezuela." This self-serving brochure is designated as the "Response of Gustavo Cisneros To An Unwarranted Attack on Ricardo Cisneros and the Cisneros Group of Companies."

3. The fabricated charges against Peña Esclusa are "inciting to commit a crime," "incitement to loot," and "inciting to generate hatred among Venezuelans," stemming from an appearance on the television program "*Lo de Hoy*" on *RCTV*, on February 16, 1994. However, far from "inciting" criminal activity, Peña Esclusa called for "the preventive seizure of all the personal goods and assets of the Diego Cisneros Organization, of Gustavo Cisneros, of [fugitive Banco Latino director] Ricardo Cisneros, of Gustavo Gómez López, simply as a means of protecting the depositors."

When the interviewer asked Peña Esclusa how to channel the civic protest arising from the collapse of Banco Latino, in which over 1 million Venezuelan citizens lost their life savings and their pensions, he replied:

"I think that President [Rafael] Caldera must carry out a nationalist revolution in this country, a peaceful one. It is



EIR Editor Nora Hamerman delivers legal complaint to the Federal Communications Commission against the Cisneros-owned Univision television station.

necessary for the President himself to carry this out before the situation deteriorates even further, and takes us to a new Feb. 27 [1989 riots in Caracas, in which thousands lost their lives].”

4. Alleging that these statements had incited a mob to attack a Cisneros-owned CADA supermarket in the town of San Cristóbal, Pedro Duran Galvis, an employee of a Cisneros-owned company, filed a criminal suit against Peña Esclusa on March 8, in the 42nd Criminal Court of Judge Noel Vera Sandoval, who immediately opened a case and issued an order preventing Peña Esclusa from leaving the country.

5. A little over a month later, Judge Vera Sandoval, who is described as having “an intimate personal relation with Koesling,” by *Diario de Caracas*, took a leave of absence. He was replaced by interim judge Guillermo Heredia, who indicted Peña Esclusa within less than 24 hours of being sworn in, ordering his arrest on April 22, just four days after taking over for Vera Sandoval.

6. At the same time the interim judge, Heredia, ordered four officials of the publishing company of *Diario de Caracas* arrested for failing to respond to a summons to testify in the case against Peña Esclusa. The four, who claimed they never received the summons, were the newspaper’s general manager Ezequiel Jiménez, editorial board member Carlos

Granier, editor Diego Batista Urbaneja, and Josué Fernández, vice-president of the *Diario de Caracas* publishing company. The order against the journalists was rescinded on April 27, following widespread protests against the judge’s actions, but the arrest warrant against Peña Esclusa remains in force.

7. “They are trying to establish a legal precedent, such that prior restraint becomes a kind of obligation for journalists and the media,” said Josué Fernández, according to *Diario de Caracas* on April 21. Such censorship is prohibited by Article 66 of the Constitution of Venezuela, he said.

8. Publisher Marcel Granier, mentioned above, said that the indictment and arrest warrant against Peña Esclusa, “is a monstrous ruling.” The judge, said Granier, acted on

“the testimony of six executives of the Cisneros Organization, the majority of them DISIP agents [Venezuela’s political police] paid by Cisneros, and without considering any proof, has issued an arrest warrant and, what is worse, which allows him to jail any executive officer or journalist of *Diario de Caracas* or *Radio Caracas Television*.”

Granier went on to accuse the judge of “lying,” and said: “I believe that a stop must be put to this; the country cannot continue to tolerate the use of state police agencies to accuse someone who thinks differently from those who want to take control of the country.”

The case against Peña Esclusa, said Granier, "is evidence that they seek to harass the communications media, terrorize journalists, so that nobody will dare to say what is happening in this country. The administration of justice, the police, have been corrupted during the past few years. Now they want to silence that, silence the scandal of the Banco Latino, where billions of bolivars [Venezuela's currency] were stolen from all Venezuelans. They don't want justice to be done in that case."

He added:

"We Venezuelans have the right to express our free opinion, and there is no Cisneros who will silence the opinion of the people."

9. The Peña Esclusa case was brought before the twenty-fourth general assembly of the International Association of Radio Broadcasters (IARB) on April 26, by Felix Carmona Moreno. Mr. Carmona Moreno is the president of the Americas' chapter of that organization which represents more than 16,000 private radio stations. He told the IARB delegates from the United States, Spain, and Latin America assembled on the Venezuelan island of Margarita, that the judicial persecution against Peña Esclusa typifies a new threat to freedom of speech:

"There are new, subtle forms of threats against free speech. . . . [For] example: The case of the secretary of the [Venezuelan] Labor Party, Peña Esclusa, who after exposing Banco Latino's irregularities in the *Diario de Caracas*, was accused of slander and defamation, and we want this matter to be analysed by the IARB."

Use of illegal wiretaps and fabricated evidence

While we are sure that Venezuela's media is more than capable of defending itself, and that the country's government can deal with those who break that nation's laws, what should be of concern to the Commission here and to other United States authorities are the illegal measures that the Cisneroses and their agents used to go after their perceived political enemies, particularly Alejandro Peña Esclusa, and their media and business rivals at *RCTV*.

10. On April 23, *Diario de Caracas* reported that a copy of the sealed case file on Alejandro Peña Esclusa had been provided to *RCTV* by an anonymous source. The information in the case file, which *Diario de Caracas* has been serializing in daily installments since then, is absolutely scandalous.

11. On April 22, 1994, Eduardo Sapene, Director of Information for *Radio Caracas Television*, gave the Peña Esclusa case file to Venezuela's Attorney General Rubén Darío Badell. In his letter of transmittal to the Attorney General, the *RCTV* official notes that despite the fact that the documents show that various Venezuelan laws had been violated, including the Penal Code, and the law to Protect the Privacy of Communications, both the titular judge and the interim judge admitted them as evidence, and used them to

draft a bill of indictment against Peña Esclusa and to order his arrest.

Mr. Sapene points out to the Attorney General that the court "should have acted without delay, according to Article 74 of the Criminal Procedural Code, to bring charges of illegal use of information, as mandated by article 63 of the Organic Law of Public Property, as well as the crime of influence peddling," against those who introduced the material into evidence. Mr. Sapene's letter continues, "We would also add that both the permanent and substitute judges, as well as the clerk, bailiff and administrative staff are all civil servants under obligation by article 93, paragraph 2 of the Criminal Procedural Code to report 'whenever in the performance of their role they become aware of any act which is subject to public punishment.' " In addition, fabricated "evidence" in the form of internal memorandums from the Cisneros Organization, some of which were dated *before* the events, and some, *as far ahead as November, 1994* were also found in the file.

The case file on Peña Esclusa includes the transcripts of over forty (40) telephone conversations that were illegally intercepted by the political police, DISIP. Some of the conversations were of a highly personal nature, between Peña Esclusa and his wife, and Peña Esclusa and his mother. Yet, these transcripts from illegal wiretaps, as well as other police documents clearly marked "confidential," got into the hands of Cisneros employees and agents, who then introduced this material, much of it irrelevant, besides being illegal, as "evidence" in the judicial proceeding against Peña Esclusa.

The information about the wiretaps and the other confidential documents, shows that there is a clear and present danger to the right of free speech and the right to privacy of American citizens if PTI, along with the Cisneros brothers, remain in control of *Univision*.

12. This is not the first time that the brothers Cisneros have attempted to silence Peña Esclusa. On March 4, 1994, the dailies *Ultimas Noticias* and *El Mundo* reported that the PLV leader had sent a letter to Venezuela's Minister of Transportation and Communication, César Quintini Rosales, asking that the license granted to the Cisneros Organization for the operation of the *Venevision* network, be revoked. Peña Esclusa's letter stated that the Cisneroses have used *Venevision*

"to lie, to manipulate, to defame and to slander anyone who dares to raise questions about their other business interests. For example, Banco Latino, of which the Cisneroses own a large portion and on whose board of directors sits Ricardo Cisneros Rendiles (currently a fugitive abroad), bilked state-owned oil companies and the Armed Forces. When I attempted to warn publicly about the danger that that represented, *Venevision* launched a scandalous campaign of slanders against me."

13. Former Venezuelan congressman Roseliano Ojeda condemned the most recent judicial persecution against Peña

Esclusa:

"The only thing he has done is to denounce, through the book *Dope, Inc.*, how the foreign debt of our countries has been commercially manipulated," he said, stressing a conspiracy against the nation which involves world financial centers such as the IMF, the scourge of drug trafficking and economic groups of great economic power in Venezuela, such as the Diego Cisneros Organization."

His statements were reported in *Ultimas Noticias* on April 24.

14. On April 24, 1994, Venezuelan Congressman Manuel Isidro Molina, chairman of the Congressional Committee on Media, denounced Judge Heredia for his "lack of legal and ethical credentials," and demanded that the Council on Judicial Conduct investigate the judge. Congressman Molina, in a statement published by *Diario de Caracas*, said he and the other members of his congressional committee are planning to descend on Judge Heredia's court on Monday, when Alejandro Peña is scheduled to turn himself in, and police are supposed to bring four officials of *Diario de Caracas* in for questioning.

15. Outside of Venezuela, the attacks against Peña Esclusa have also created much concern. Former U.S. Attorney General Ramsey Clark has written the Venezuelan government condemning the indictment and attempted arrest. Other very prominent international officials have also denounced these oppressive tactics such as: the former President of Argentina, Arturo Frondizi; the former Vice-President of the French National Assembly, Roger Garaudy; Congressman Rufino Saucedo, a member of the Human Rights Committee of Mexico's Congress; Congressman Miguel Pajares Ruiz of Peru; and Canadian Archbishop Bertrand Blanchet, of Rimousky, Quebec as well as several elected officials in the United States.

D. False programming

Also of special note is a fact that *EIR* wishes to bring to the attention of this Commission: reprehensible actions of the Cisneros's *Venevision* to even break the law, just to make a sensational TV program.

The Venezuelan Federation of Environmental Organizations denounced Cisneros-owned *Venevision* for having produced a documentary in which some Venezuelan fishermen are shown killing a dolphin. It had been discovered that the administrator of a Cisneros-run entity, Bioma, paid to have the dolphins butchered in order to make a film for the *Venevision* documentary. The program had been aired in November 1993 by *Univision* in the United States!

This Commission surely does not sanction such disgusting, immoral tactics. Yet, the granting of the application of PTI in partnership with the Cisneros' *Venevision* has the effect of doing just that. The Commission's own Memorandum Opinion and Order in this case which granted PTI's

application even acknowledged that:

"Obviously, the Buyer and the Parent contemplate that the bulk of the Network's programs will be provided by Televisa and Venevision, and the network agreement reflects that fact."

Argument

I. Absolute truthfulness in written submissions to FCC is a core obligation

In a world of few absolutes, no principle of FCC regulatory jurisprudence is more firmly established than the agency's requirement that its applicants tell the truth. Candor is of "prime concern" to the FCC. Indeed, deregulation and budgetary constraints have left the FCC more dependent than ever on the voluntary forthrightness of its applicants.

When the FCC occasionally has retreated from a vigorous enforcement of this bedrock requirement, the courts have not hesitated to reverse the agency. Even "trivial deceptions" have been grounds for disqualification.

Thus, PTI and Cisneros clearly violated the Commission's rules by submitting false written representations to the FCC. Such duplicitous behavior before the FCC raises a substantial question whether PTI is basically qualified to become the owner of *Univision*.

At some point, the FCC's applicants who misrepresent material facts must yield to upholding the agency's bedrock requirements that its regulatees tell the truth.

EIR believes that the misrepresentations in the PTI proceeding compel the Commission to reopen and enlarge the issues for its review and reconsideration of the application. See, e.g., *Citizens Committee to Save WEFM v. FCC*, *supra*, 506 F.2d at 266. As the court stated in *California Public Broadcasting Forum v. FCC*, *supra*, 752 F.2d at 679:

"it is fundamentally unfair for the FCC to dismiss a challenge where the challenging party has seriously questioned the validity of a representation and the defending party is the party with access to the relevant information."

1. Banco Latino, formerly the second largest bank of Venezuela, failed on January 13, 1994 and 83 of its officers and directors, including Ricardo Cisneros, were subsequently indicted for illegal appropriation of funds, fraud, conspiracy to defraud and falsification of balance sheets. A February 25, 1994 front page headline article in Venezuela's *Ultimas Noticias* reports that Banco Latino's former president and Cisneros partner, Gustavo Gómez López, states that it was the Cisneros Organization which had free access to the bank's money such that the Cisneroses are the largest debtor of the bank.

2. Indeed, the Commission then determined the "source of funds" was irrelevant and that instead it would concern itself only with the "control of the licensee's finances."

3. The Clinton administration through the U.S. Department of Justice and Department of State has just gone on record to protest any leniency for the Colombian drug cartels.