

WILL ARBITRON'S PERSONAL PEOPLE METER SILENCE MINORITY OWNED RADIO STATIONS?

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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WILL ARBITRON'S PERSONAL PEOPLE METER SILENCE MINORITY OWNED RADIO STA- TIONS?

WEDNESDAY, DECEMBER 2, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:07 a.m., in room 2157, Rayburn House Office Building, Hon. Edolphus Towns (chairman of the committee), presiding.

Present: Representatives Towns, Cummings, Kucinich, Tierney, Clay, Watson, Connolly, Norton, Cuellar, Chu, Issa, Jordan, and Luetkemeyer.

Staff present: Ron Stroman, staff director; Mike McCarthy, deputy staff director; Beverly Britton-Fraser, counsel; Ryshelle McCadney and Alex Wolf, professional staff members; Carla Hultberg, chief clerk; Marc Johnson, assistant clerk; Gerri Willis, special assistant; John Arlington, chief counsel for investigations; Neema Guliani, investigative counsel; Adam Hodge, deputy press secretary; Jenny Rosenberg, director of communications; Shrita Sterlin, deputy director of communications; Leneal Scott, IT specialist; Lawrence Brady, minority staff director; John Cuaderes, minority deputy staff director; Jennifer Safavian, minority chief counsel for oversight and investigations; Adam Fromm, minority chief clerk and Member liaison; and Mark Marin and John Ohly, minority professional staff members.

Chairman TOWNS. The committee will come to order. Good morning.

Today, the committee will examine the use of Arbitron's Portable People Meter, a device that Arbitron claims is revolutionizing radio audience ratings, but which, instead, may be eliminating diversity in radio broadcasting.

The last 30 years have been a great American entrepreneurial story for minority-owned radio stations and minority radio listeners. Where once there were few or no minority radio stations in most cities, now there are multiple stations competing in all major metropolitan areas. The existence of this hard-won legacy is now threatened. Arbitron's controversial use of PPM is driving away advertisers. Minority radio has been hit by a perfect storm, the economic downturn and PPM.

Most people have probably never even heard of the PPM. The PPM is a device that looks like a beeper. It is designed to detect and electronically record the radio stations a person listens to.

Arbitron is using the PPM to replace the paper diaries that have been used for decades to find out which who listens to which station. In 2006, Arbitron introduced the PPM in several cities, including New York and Philadelphia. The results were swift. The ratings of minority-owned or minority-targeted radio stations plummeted by as much as 70 percent.

Since then Arbitron has expanded the use of its PPM across the country in 31 additional markets which has resulted in crippling minority-owned or targeted radio stations. These ratings have had a devastating effect on the radio industry. Advertising, profit and programming choices are all shifting away from the minority communities.

I have no quarrel with a rating system that is accurate, but there is serious question as to whether the way Arbitron uses PPM produces truly accurate results. I note that I am not alone in the concern. The Media Rating Council is the industry's self-regulatory body. Where the Council finds that a measurement service consistently provides fair, accurate and unbiased data, it awards accreditation. Where this is not the case, it denies accreditation.

The MRC has reviewed Arbitron's use of the PPM and has certified its use in only two markets—Riverside, CA and Houston, TX. The MRC has withheld accreditation to Arbitron in 31 of the 33 PPM markets. In addition, the attorney general in New York, New Jersey, Maryland and Florida have all taken actions against Arbitron, alleging flaws in PPM's methodology that have resulted in the under-counting of minority listeners, precipitous drops in ratings, and loss of advertising revenues. Yet, Arbitron has not changed and insists on commercialization before it receives proper accreditation.

Some people may ask how a problem like this could even exist in this day and age. Well, as the famous expression goes, "When the cat's away, the mice will play." In this case, the cat has not been seen in years. For many years, our Government has taken a hands-off approach to oversight or regulation of the radio rating industry. The results are that Arbitron, a monopolistic company, is not regulated by anyone.

Arbitron argues that the FCC does not have jurisdiction over it and Arbitron is free to ignore MRC—the so-called industry regulator—because MRC is a purely voluntary organization with a voluntary code of conduct and voluntary participation and "We do not have to pay attention to them as well." Can we afford to make the health of minority radio broadcasting depend on voluntary good behavior on the part of a monopolistic company?

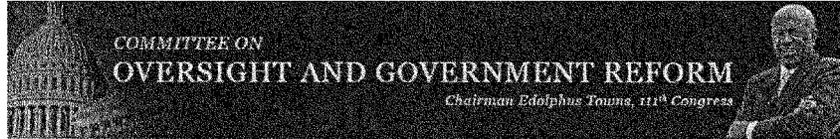
This is not the first time Congress has considered this question. Back in the 1960's, the House Interstate and Foreign Commerce Committee considered regulating radio and television audience rating companies. Back then, Congress opted to let the industry regulate itself based on assurance that it would be done in a rationale way. In fact, the industry created MRC to carry out that self regulation.

Apparently, this self regulatory system more or less worked for a number of years. Now, I am not sure. Perhaps we need to take another look at that basic issue.

Today, we will have the opportunity to hear from Michael Skarzynski, the CEO of Arbitron, who can hopefully shed light on some of these questions. Additionally, we will hear from other members of the radio industry who have been directly affected by the PPM. I look forward to hearing their testimonies and then discussing potential solutions to this problem.

At this time, I would like to yield time to the ranking member of the committee, the gentleman from California, Congressman Darrell Issa.

[The prepared statement of Chairman Edolphus Towns follows:]



**OPENING STATEMENT OF
CHAIRMAN EDOLPHUS TOWNS**

**COMMITTEE ON OVERSIGHT AND GOVERNMENT
REFORM**

**“Will Arbitron’s Portable People Meter
Silence Minority-owned Radio Stations?”**

December 2, 2009

Good morning and thank you for being here.

Today, the Committee will examine the use of Arbitron’s Portable People Meter (PPM), a device that Arbitron claims is revolutionizing radio audience ratings, but which instead may be eliminating diversity in radio broadcasting.

The last 30 years have been a great American entrepreneurial story for minority-owned radio stations and minority radio listeners. Where once there were few or no minority radio stations in most cities, now there are multiple stations competing in all major metropolitan areas.

The existence of this hard won legacy is now threatened – Arbitron’s controversial use of PPM is driving away advertisers. Minority radio has been hit by a perfect storm, the economic downturn and the PPM.

Most people have probably never even heard of the PPM. The PPM is a device that looks similar to a beeper. It is designed to detect and electronically record the radio stations a person listens to. Arbitron is using the PPM to replace the paper diaries that have been used for decades to find out who listens to which radio stations.

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Since then Arbitron has expanded the use of its PPM across the country in 31 additional markets, which has resulted in crippling minority-owned or targeted radio stations. These ratings have had a devastating effect on the radio industry: advertising, profit, and programming choices are all shifting away from minority communities.

I have no quarrel with a rating system that is accurate. But there is serious question as to whether the way Arbitron uses PPM produces truly accurate results.

I note that I am not alone in this concern. The Media Rating Council (MRC) is the industry’s self-regulatory body. Where the Council finds that

a measurement service consistently provides fair, accurate, and unbiased data, it awards accreditation. Where this is not the case, it denies accreditation.

The MRC has reviewed Arbitron's use of the PPM and has certified its use in only two markets: Riverside, California, and Houston, Texas. The MRC has withheld accreditation to Arbitron in 31 of 33 PPM markets.

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Arbitron argues that the FCC doesn't have jurisdiction over it. And Arbitron is free to ignore MRC, the so-called industry regulator, because MRC is a purely voluntary organization with a voluntary code of conduct and voluntary participation.

Can we afford to make the health of minority radio broadcasting depend on voluntary good behavior on the part of a monopolistic company?

This is not the first time Congress has considered this question. Back in the 1960's the House Interstate and Foreign Commerce Committee considered regulating radio and television audience rating companies. Back then, Congress opted to let the industry regulate itself, based on assurances that it would be done in a rational way. In fact, the industry created MRC to carry out that self-regulation.

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I look forward to hearing their testimony and discussing potential solutions to this problem.

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Mr. ISSA. Thank you, Mr. Chairman.

As this committee is well aware, as a result of our oversight of the census, we will expect and will get a more accurate count, data that is more reliable. Oddly enough, new technology for the census was at the core of our hearings and our recognition that the new technology was not ready for prime time. Today's hearing similarly is on whether the accuracy, the total accuracy of PPM is, in fact, to be acknowledged or if, in fact, more work is to be done.

It seems clear that prior to the introduction of PPM, radio rating measurement was stuck in the words of one columnist, "in the Stone Age." With the use of weekly, handwritten paper diaries, the issues related to the use of these diaries and fair, simple, easy to grasp terms was questionable. Attempting to restructure that system, if you will, to make a Franklin day planner of diaries had been tried many times but, ultimately, it was only as good as the reporting person and often questions about brand loyalty being more important when someone was recapturing what they had done over a week rather than how many minutes they spent on a specific station.

Notwithstanding that, my district, including one of the two locations in which we have been approved, Riverside, CA, I am acutely aware that we want to not only get it right, but we want to recognize the real value in a media market of listeners.

I am pleased today to see both the president and CEO of the rating agency and our witnesses, Alfred C. Liggins, chief executive officer and president of Radio One, a person who, in fact, has found it to be a useful tool.

Mr. Chairman, I am not going to go through my entire opening statement. I have asked that it be placed in the record.

Chairman TOWNS. Without objection.

[The prepared statement of Hon. Darrell E. Issa follows:]

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH CONGRESS
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Statement of Rep. Darrell Issa, Ranking Member

“Will Arbitron’s Personal People Meter Silence Minority Owned Radio Stations?”

December 2, 2009

Thank you, Mr. Chairman. As this Committee is well aware as a result of our oversight of the Census, accurate and dependable data is essential, and that is one of the core issues of today’s hearing looking into radio listening measurement – whether the development of a new technology and its implementation into the marketplace provides greater accuracy or raises new questions.

It seems clear that prior to the introduction of the PPM, radio ratings measurement was stuck, in the words of one columnist, “in the Stone Age” with the use of weekly, hand-written paper diaries. The issues related to the use of diaries are fairly simple to grasp, such as diary-keepers attempting to retroactively reconstruct an entire week’s worth of active listening and exposure to radio broadcasts at the end of the week, or recording time spent listening to stations on a given day based on what they usually listen to or on “brand loyalty” for certain stations.

Advertisers understandably demanded more reliable, more granular, and timelier data – in short, a 21st Century replacement for the Stone Age diaries. Arbitron spent the better part of two decades researching and developing the PPM, a passive device system that, if implemented correctly, should provide advertisers and broadcasters with the types of information they need to compete in this economic climate and competitive media market.

As PPM has been implemented in markets across the nation, audience measurement results and rankings have changed, in many cases dramatically. We will hear today from a number of broadcasters and advertisers who believe that flaws within Arbitron’s measurement methodologies related to minority participation in statistical sampling are the cause of the changes in results and rankings. I look forward to hearing about the issues surrounding the implementation of PPM, both what has gone well and what has not gone well, how it is affecting the accuracy of audience measurement, and also about the efforts Arbitron has made to address these issues.

I am also interested in hearing from Alfred Liggins from Radio One, whose company has supported the implementation of PPM, and from the Media Rating Council, which Congress encouraged the creation of as a non-profit, privately-funded, privately-organized self-regulatory body in the 1960s.

I thank you again for holding this hearing.

Mr. ISSA. I would just close saying that although today the numbers are what we are talking about, from my own background of purchasing advertising, I can tell you that Black Entertainment Television, when I was advertising on cable, outperformed in the actual benefit to our company its rating and was one of the most cost effective places to advertise my brands. Knowing this, I recognize that even with a rating, it doesn't state what the value is to the advertiser.

In closing, Mr. Chairman, it is clear that we have to both look at accurate numbers and over time, the rating agencies must, I repeat, must modernize to look at intensity of the listener, intensity of the watcher in the case of television, and weight that.

Today, there is no such thing as a system that properly understands that you may have less or more listeners, they may listen for less or more time, but they may be much more loyal to the brands that are advertised on those stations. That technology does not exist. We will not hear, as far as I know, about it today, but Mr. Chairman, I appreciate that you are teeing up a matter that has been for too long not heard in the Energy and Commerce Committee, in this committee, or even next door in the Judiciary Committee. I commend you for holding this hearing and yield back the balance of my time.

Chairman TOWNS. Thank you very much. I appreciate your testimony and also your kind words.

We will now move to our first panel. It is a longstanding policy that we swear in all of our witnesses. Please stand and raise your right hands.

[Witnesses sworn.]

Chairman TOWNS. You may be seated.

Mr. Michael Skarzynski is president and CEO of Arbitron. Prior to joining Arbitron, Mr. Skarzynski served as president and CEO at a number of technology companies, including Performance Technology, also with Xebeo, Predictive Network and focused on business and product development.

Mr. Skarzynski also held management positions at Lucent and under the administration of George H. Bush, Mr. Skarzynski served as Under-Secretary of Trade Development at the Department of Commerce.

Mr. George Ivie has been the executive director and CEO of the Media Rating Council since 2000. The Media Rating Council is a not for profit organization which was created at the request of Congress 44 years ago to ensure high ethical and operational standards for rating companies. Mr. Ivie's background includes 25 years of experience in media research, auditing, oversight, and consulting.

Prior to joining the MRC, Mr. Ivie was a partner at Ernst & Young and their lead representative and advisor to the MRC.

Ms. Ceril Shagrin is the executive vice president of the Corporate Research Division at Univision Communications, Inc. where she oversees research for all media divisions. Ms. Shagrin is considered an expert in the field of audience measurement and is renowned for her research on sampling methodology.

Prior to joining Univision, Ms. Shagrin was the senior vice president for marketing development at Nielsen's Media Research. During her 27 years at Nielsen, she developed new systems of data col-

lection and was also the principal developer of Nielsen's Hispanic service which she managed for 10 years. Welcome.

Mr. David Honig is the co-founder, current president and executive director of the Minority Media and Telecommunications Council [MMTC]. He also serves as general counsel to the Broadband Opportunity Coalition. The MMTC represented over 70 minority, civil rights, and religious national organizations in selected proceedings before the FCC and other agencies.

Mr. Honig has practiced communications and civil rights law since 1983, specializing in electronic redlining and race discrimination cases.

Why don't we start with you, Mr. Skarzynski. Give us your statement. You have 5 minutes. The way it works here is that when you start out, the light is on green. A minute before it ends, it turns to yellow, and then a minute later, it turns to red. Red throughout the United States of America means stop.

Mr. Skarzynski, please.

STATEMENTS OF MICHAEL SKARZYNSKI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ARBITRON, INC.; CERIL SHAGRIN, EXECUTIVE VICE PRESIDENT, CORPORATE RESEARCH DIVISION, UNIVISION COMMUNICATIONS, INC.; DAVID HONIG, PRESIDENT AND EXECUTIVE DIRECTOR, MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL; AND GEORGE IVIE, CHIEF EXECUTIVE OFFICER, MEDIA RATING COUNCIL

STATEMENT OF MICHAEL SKARZYNSKI

Mr. SKARZYNSKI. Good morning, Mr. Chairman, Ranking Member Issa and members of the committee.

I am Michael Skarzynski, chief executive officer of Arbitron.

On behalf of Arbitron's 1,300 employees who work in 27 States, I am proud to appear before this committee today. For more than 6 years, Arbitron has been dedicated to advancing the interest of the radio industry. We provide the quality data that allows radio broadcasters to make programming decisions and advertisers to make their media buying decisions.

Today's hearing is focused on Arbitron's Portable People Meter and its impact on minority radio stations. We share the concern regarding the health of this important voice of the broadcasting community. We are, however, confident that PPM is not the cause of the challenges faced by minority broadcasters.

It is encouraging to note that urban adult contemporary is the most listened to format in the top 16 PPM markets. This was reported just 2 days ago by an important trade publication, Inside Radio. We believe that the Inside Radio report is another strong indication that PPM continues to reflect reliably the listenership of all formats, including Urban and Hispanic.

Arbitron has worked to implement the PPM service responsibly and fairly and we have always been sensitive and responsive to customer concerns raised about PPM.

Arbitron launched its innovative rating service to help support the entire radio industry's objective to have relevant, reliable data that enables it to compete against television, Internet and other

media for advertising revenue. While PPM represents a significant advance, it cannot do everything. It cannot solve the severe economic challenges that the radio industry has confronted for the last 2 years. We have all felt the impact of a recession that has caused a drastic and, in some cases, devastating decline in radio advertising with resulting significant decline in radio revenue. Further, PPM cannot address the high debt burdens faced by many radio broadcasters, including minority broadcasters.

Our radio broadcast customers asked Arbitron to develop an electronic measurement service that helps them showcase the value of radio. Our advertising agency customers asked us to provide them with a service that more accurately reflects exposure to radio. We responded.

The development of PPM is a reflection of our commitment to improving radio. Arbitron spent more than \$100 million over 10 years developing this solution. We incorporated input from industry players and the technology has been thoroughly tested over time. The PPM technology and methodology are solid. PPM was honored by Time Magazine as one of the best inventions of 2007.

PPM methodology was built on the MRC Accredited Diary Methodology and produces valid and reliable audience estimates. In fact, PPM has been the audience measurement tool of choice for several years in a number of European countries as well as Canada and Singapore. Overall, we have received a great deal of positive customer feedback about PPM.

Broadcasters are telling Arbitron that PPM provides reliable, timely and granular data. Providing our broadcast customers more timely PPM data has helped guide mid-course directions and programming adjustments to advance their business.

For example, California radio station KJLH, owned by Stevie Wonder, added the Steve Harvey Show on August 10, 2009. Current PPM data shows that KJLH, between September and October 2009, experienced a 60 percent increase in morning drive share for persons 18 to 34.

When I joined Arbitron in January of this year, I made it my priority to visit customers personally. I learned from customers that there are powerful and constructive ideas about how we can improve our PPM service. In fact, listening to our customers has helped us craft continuous improvement programs as we strive to improve our PPM service and make it a valuable asset for the industry.

Every technology requires improvements and we believe we have been both proactive and responsive to making improvements. This year, we have expanded cell phone only sampling to a national average of 15 percent and we expect to increase to 20 percent by year-end 2010.

We have instituted country of origin reporting, we have expanded extensive training, in-person coaching and enhanced incentives to encourage greater survey participation. Additionally, we are working with customers and other industry leaders to develop an engagement index. As envisioned, the engagement index would be a metric that compliments existing data and reflects an audience involvement and loyalty to a particular station. This cooperative

work will help all broadcasters, advertising agencies and advertisers have a balanced impact on radio ad planning and bonding.

We have been working tirelessly with members of the minority broadcasting community and we believe that with your leadership and continued dialog, we can make progress toward common ground.

Mr. Chairman, Arbitron welcomes the opportunity to work with you and members of the committee to address the challenges of minority radio broadcasters. I look forward to your questions.

Thank you very much.

[The prepared statement of Mr. Skarzynski follows:]

**WRITTEN TESTIMONY OF MICHAEL SKARZYNSKI,
PRESIDENT AND CHIEF EXECUTIVE OFFICER,
ARBITRON INC.**

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**

DECEMBER 2, 2009

Thank you, Chairman Towns, Ranking Member Issa, and Members of the Committee for inviting me to speak with you today about our company, Arbitron Inc., and the Portable People Meter™, or PPM™, service. PPM is an innovative audience measurement service that we are introducing in the top 48 radio markets in the United States.

Executive Summary

In the highly-competitive marketplace for media advertising dollars, in which radio competes with television, the Internet, and other entertainment and information platforms, advertisers are demanding the most reliable, granular, and timely data available. Television and the Internet have responded to that demand with near-passive electronic measurement of their respective audiences, using Twenty-First-Century technologies. Radio cannot afford to fall behind. Arbitron's PPM service represents one of radio's best hopes for retaining its share of advertising expenditures over the next several years.

The PPM technology, developed over 17 years, requires virtually no human intervention, beyond requiring the panelist to carry his or her meter during the day, so that the meter can capture the panelist's exposure to radio stations that are identified to the meter by inaudible codes embedded in the stations' signal transmissions. This differs from the decades-old pen-and-paper diary service, which requires the diarykeepers to accurately remember and faithfully record the stations that they listened to over a seven-day span; that, of course, introduces the possibility of faulty memory, faulty recordation, diarykeepers' "voting" for preferred stations to which they did not listen, and other forms of human error.

Many radio stations and their advertisers have welcomed the fact that the PPM service produces very specific data on panelist exposure to radio stations, such as precise tune-in and tune-out times, which can be correlated to the station's programming on a minute-by-minute basis, and therefore can be used as a proxy for determining the attractiveness of particular program content. The audience estimates can be generated in a matter of days, rather than waiting for the quarterly diary reports.

We have observed that certain kinds of radio station formats have experienced initial drops in their audience ratings and market rankings in the transition from the diary to PPM service, especially formats that involve high levels of listener engagement. These include, for example, formats that target minority listeners, as well as those that target non-minority listeners, such as "talk" radio or Christian radio. Arbitron is working with its customers to make continuing improvements and refinements to the PPM service, including new and enhanced

features that were not a part of the diary service (and whose absence from the diary service was not considered controversial). They include, for example, more cell-phone-only households in the samples, and country-of-origin information for Hispanic panelists. We have also worked with our clients, especially our clients whose stations target Hispanic and Black audiences, to assist them in understanding the new insights into radio consumer behavior that the PPM data have uncovered. As a result, a number of minority-oriented stations have seen their audience ratings and market rankings return to where they were, or even improve upon their positions, in the final diary-based reports.

Arbitron welcomes the opportunity to acquaint the Committee with the innovative PPM service and to discuss the variety of factors that are working in the opposite direction to impact the radio industry negatively, in particular minority-oriented radio, including most significantly the current economic recession.

* * *

Arbitron is a leading provider of radio station audience measurement data in the United States. We have been providing audience research services since 1949, and we employ approximately 1,300 persons in 27 states. Our headquarters are in Columbia, Maryland.

Seventeen years ago we began development of the PPM service, a new technology for measuring radio listeners' exposure to stations. Advertisers requested a more accountable and granular measurement system than the pen-and-paper diary that was exclusively in use at that time. Arbitron created the PPM service in order for radio to remain competitive with other media for advertising dollars.

The system that has been in place for over four decades for measuring radio audiences is the diary system. It has served the radio industry, as well as radio advertisers and their agencies, quite well over the years. In fact, we offer the diary service in the markets where we do not presently plan to introduce the new PPM service.

The diary service relies upon self-reporting by persons whom Arbitron selects to participate in its surveys. We randomly select participants in order to represent the demographic make-up of the marketplace, including characteristics such as gender, race and ethnicity, age, geographic location, and English- or Spanish-language dominance for Hispanic participants, in order to reflect, as closely as possible, the make-up of the local community.

Once we have recruited persons to serve as diarykeepers in our surveys, we provide them with a paper diary and ask them to fill in the radio stations that they listen to over the course of a seven-day span. In general, we have found that we achieve satisfactory results from our diarykeepers.

However, because the diary method depends so heavily upon the behavior of the persons who serve as our diarykeepers, the method is only as reliable and effective as human nature permits it to be. Of course there are diarykeepers who, because of daily circumstances, are unable to fill out the diary on an hourly or even daily basis. Some diarykeepers find themselves at the end of the one-week diary period attempting to reconstruct their station listening experiences from several days beforehand. Some diarykeepers record that they listened to

stations on a given day based upon their normal listening habits, or based upon their preferences for certain stations, irrespective of whether they actually listened to those stations on those days. In the end, these distortions from actual listening experience are really reflecting something entirely different: they are reflecting the extent of the diarykeeper's loyalty towards the stations that are his or her favorites, a characteristic that we refer to as "engagement," "affinity," or "top of the mind." Engagement is certainly important. But a diarykeeper who writes down stations that he or she would like to have listened to, but in fact did not listen to, is not telling us what he or she actually heard.

In the 1980s, the National Association of Broadcasters' Committee on Local Radio Audience Measurement – known by its acronym, "COLRAM" – worked with Arbitron to develop a uniform standard for what the industry desired in the way of audience measurement. The diary design and instructions that were developed at the time emphasized that, and I quote: "'Listening' means any time you can hear a radio – whether you chose the station or not." This definition of listening is important to advertisers, because it captures the essence of what the advertiser is purchasing when that advertiser buys commercial time on a radio station – namely, that the listener was exposed the advertiser's message.

Arbitron began developing the PPM device in 1992 to serve as a more precise tool for measuring listener exposure. After a long period of intensive research and development that incorporated technological advancement, consumer behavioral research, and other factors, we introduced the PPM service in Houston, Texas. Let me first describe how the PPM service works, and then I will return to our experience in Houston.

The PPM methodology operates differently from the diary service. We first recruit a panel of PPM participants, again with a mixture of males and females, members of various ethnic and racial groups, and persons representing a variety of defined age brackets, English- or Spanish-language dominance for Hispanic panelists, in addition to other demographic characteristics, in order to reflect the market in question. We ask the panelists to participate for a period of up to two years.

At the outset, we provide the panelists with training and equip them with a small electronic meter, similar in size to a cell phone, which they are asked to wear on their persons or otherwise carry with them during their waking hours. The meter captures radio station signals to which the panelist is exposed during the course of his or her day, based upon inaudible digital identifiers that are encoded into participating radio stations' broadcast signals. When the panelist goes to bed at the end of the day and places the meter in its docking station, the meter downloads all of the relevant information that it has recorded that day, and that information is sent to our central processing facility in Columbia.

The PPM meter, in addition to capturing data related to radio station exposure, also records "motion data," which allows us to determine which panelists carried their PPM meters for the required amount of time during that day. Follow-up coaching and contacts are scheduled for panelists who did not comply with our minimum meter carriage requirements, while data from compliant panelists is compiled on a daily basis into reports on the listening exposures of our panelists. Based upon those compilations, we then publish and license our copyrighted audience estimates for that market for that week. Robust statistical procedures balancing the

complying sample to U.S. Census-based population estimates are employed in the production of the audience estimates. This process, sometimes known as “weighting,” is a standard, conventional tool used in various forms of population surveys to account for any underrepresented or overrepresented demographic groups.

One of the advantages of the PPM service is that it requires almost no human intervention and hence is not susceptible to human errors of recall, such as we have experienced with some of our diarykeepers. So long as our PPM panelist wears the meter throughout his or her day (the average panelist wears the meter between 14 and 15 hours per day), his or her listening exposure is automatically captured by the meter, and we have an objective and reliable record of the stations to which that panelist was exposed.

The PPM service therefore allows us to track a panelist’s listening experiences at an extremely precise level – we can tell when, for example, a given panelist (whether a Black female or a Hispanic male in the 18-to-34 age group) tuned in and tuned out to a given station. The behavior can then be correlated to the exact program content of that station at those times, so that it can be determined what changes in the programming may have coincided with the tune-in and the tune-out. In addition, we can produce these data within a matter of days, which enables stations and advertisers in the fast-moving environment in which media advertising is bought and sold to keep current with programming events of special significance, trends, and other factors that influence that buying and selling activity.

How important is this to the radio industry? In a word, it is vital. Electronic measurement of media audiences has already taken hold in other platforms, most notably television, the Internet, and even outdoor advertising. With advertisers increasingly insistent on ensuring that their limited media advertising budgets are spent in the most effective manner possible, radio – the oldest of the electronic media – simply cannot afford to be left behind with the diary method while its younger electronic siblings in television and on-line are moving to a Twenty-First-Century technology that gives advertisers the level of detail, granularity, precision, accountability, confidence, and timeliness that those advertisers and their agencies are demanding.

You do not need to take our word for that. Consider observations made by Radio One, Inc., which owns or operates 53 radio stations in 16 urban markets in the United States and is the nation’s largest radio broadcasting company that primarily targets African-American and urban listeners. In comments filed with the Federal Communications Commission this summer, Radio One noted that:

Arbitron’s . . . PPM service represents a necessary advancement in radio audience measurement. The PPM service provides radio broadcasters with the type of granular and timely data that the diary system cannot provide. For the first time, we can evaluate on a minute-by-minute basis the listening habits of our audience – when they tune in, how long they listen, and when they switch to another radio station. This level of specificity allows us to modify station programming in a manner that reflects the reality of how radio is consumed.

Or consider the comments of the Ackerman McQueen advertising agency in Oklahoma City, which were also filed with the FCC earlier this year:

Using the Arbitron PPM data, our agency has found that we have been able to: gain much more insight as to when to run ads, which stations are more appropriate for our clients and in general to be more cost effective with their funds. The higher level of data accuracy has also encouraged clients to invest at more robust levels than they have in the past.

In the current economic recession, with some of radio's strongest traditional advertiser categories failing – like automotive, financial services, and retail – the radio industry needs every bit of help that it can get. We at Arbitron, like our clients and customers who own and operate radio stations and our clients and customers who buy commercials on radio stations, believe that the PPM service is an absolute necessity for radio to keep pace with competing media whose audiences are measured electronically.

So what has been our experience in introducing the PPM service in markets where the diary system has been the currency for radio station ratings for decades? As you might expect, and as is frequently the case with technological innovations, there has been a period of change and adjustment. Stations that featured programming formats characterized by high levels of listener loyalty and engagement – recall that the diary method tends to reward that characteristic over precise recordation of exposure – have initially seen drops in their audience ratings and market rankings. That has been experienced by some (though not all) stations that target Blacks and Hispanics, and also by stations that target what we at Arbitron call “Other” (meaning persons who are not Blacks or Hispanics). For example, in the transition from the diary service to the PPM service, WABC, a “talk” radio station in New York, dropped almost sixty percent in its audience ratings among adults in the 25-to-54 age category for the Sean Hannity radio program – which has a heavily non-minority audience.

But that is not the end of the story. Let me return to our experience in Houston. In the Winter, 2008 survey – which produced the last diary report released in that market – two stations owned by Radio One (the company that I mentioned earlier) that feature “urban” formats targeting Black listeners were ranked Numbers One and Three in the market. The first report that was based on the PPM service showed those two stations falling to Numbers Six and Eight, respectively. In response, the station's management decided to take a closer look at the information-rich data produced by the PPM report and was able to fine-tune the stations' on-air sound including coordinating the programming of the two stations. As a result, without changing the stations' formats, the stations rebounded by June, 2008 to take the Number One and Number Two spots.

Our filings with the FCC in July of this year show that in market after market where the PPM service has been introduced and commercialized – including markets as diverse as New York, Los Angeles, Chicago, San Francisco, Detroit, Atlanta, Dallas, Houston, Miami, Phoenix, and San Diego – stations that target Black and Hispanic audiences have experienced fluctuations in their audience shares and market rankings. Many of those stations that initially dropped in

their ratings and rankings later regained the positions that they had enjoyed under the final diary reports, and in numerous cases they actually improved upon their standings in the last diary reports. For example, KJLH, a California station owned by Stevie Wonder, has grown its audience in the morning drive among Black Persons 18-49 from a 6 share in June to a 17.9 share in September. KLJH experienced a 60 percent increase in one month, from September to October, 2009 after adding "The Steve Harvey Show" in August. We have additional data to demonstrate similar kinds of PPM success stories for minority-oriented radio stations, and we would be more than happy to share that information and discuss it with the Committee.

With all that said, we at Arbitron recognize that the cut-over from the pen-and-paper method for self-reporting listening experiences, with its inherent opportunities for faulty diarykeeper recall or preferences, to a near-passive, electronics-based, objective recording by the PPM meter of panelist exposure to radio stations, has hit some stations especially hard. We have reached out to our customers, we have heard their concerns, and we have over 60 improvement initiatives underway, including improvements that address matters that were not even a subject of concern in the diary service. These include:

- accelerating the number of cell-phone-only households that are included in the PPM panels, notwithstanding the fact that prior to 2009, cell-phone-only households were not recruited to serve as participants in the diary-based surveys. We have set a target to have a national average of 15% of our samples as cell-phone-only households by the end of this year, and a national average of 20% by the end of 2010;
- introducing information on PPM panelists' country of origin, which is of particular significance to stations that appeal to Hispanic audiences, again without regard to the fact that country-of-origin data were not featured in traditional diary-based reporting;
- creating special programs for coaching young adult PPM panelists, including in-person coaching, and providing for new and increased incentives for such panelists, in order to obtain greater levels of their participation and greater levels of compliance with the requirements for having their participation recorded in our daily compilations (which we refer to as being "in-tab");
- implementing stratified sample selection, where prospective households are sorted based upon key demographic information, which allows us to focus our recruiting efforts and has improved young adult representation in our PPM panels; and
- redesigning landline installation box materials and utilizing cell-phone modems in cell-phone-only households to improve installation rates for recruited households.

In addition, we have a plan to increase the PPM sample size by ten percent in all markets, beginning in 2010.

In that regard, we want the Committee to understand that while we view the innovative PPM service as a substantial improvement over the diary service, we believe that it can benefit from ongoing modifications and enhancements as a result of our bringing the service to market, gleaning reactions from interested stakeholders, and going back to our researchers and technical staff to explore possible adjustments. We call it our “Continuous Improvement Program” and we believe that the dialogue that we have had and are continuing to have with our clients and customers – including some of our critics – have benefited all parties. For example, take the country-of-origin information that is now being provided in the PPM reports for certain markets that have high Hispanic populations: under the diary system, country-of-origin information was simply not provided. And those of our critics who initially faulted our PPM service for not including country-of-origin information (and who, incidentally, had never directed that criticism at our diary reports) are now equipped with additional data that may help them better understand and cater to their audiences.

Speaking of an ongoing process . . . that leads me to our status before the Media Rating Council, known as the MRC. As you probably know, the MRC is a privately-organized, privately-funded body that grew out of Congressional hearings into media audience measurement services that were conducted in the 1960s. Congress determined not to legislate a program of federal government regulation of media audience ratings companies, but rather to encourage industry self-regulation. The MRC (as it is now known) was formed in order to develop standards for awarding accreditation to media audience measurement services and to act on applications from such services seeking accreditation. While the MRC accreditation process is helpful to assist with suggestions on continuous improvement and to increase confidence in the data as a type of “good housekeeping seal of approval,” it is important to note that the MRC has not established quantitative thresholds for many of the research quality or service attributes they examine when considering accreditation. Rather it is an ongoing process of review and feedback. Some of the achievements on specific metrics in markets where accreditation has been granted do not garner accreditation in other markets. Accreditation decisions are the result of voting by industry players in the media and advertising sectors, and others, who pay for the privilege to join the MRC and vote on accreditation in their capacities as MRC members, where their companies may have an interest in the data produced by the service that is applying for accreditation.

We have received MRC accreditation in two markets, Houston and Riverside-San Bernardino, California. We have been denied in two markets, New York and Philadelphia. We are committed to achieving accreditation in every market in which the PPM service is being commercialized, and we have applications pending before the MRC for an initial decision on accreditation in 21 markets where the service is now in “currency,” which is our terminology meaning that PPM-generated data are now approved for the buying and selling of commercial advertisements on radio stations in those markets.

The MRC has a Voluntary Code of Conduct. That Code encourages, but does not require, that media audience ratings services obtain accreditation for a new audience measurement product that is replacing a previously-accredited audience measurement product, before the new product is commercialized. Because the MRC is composed of various media companies, advertisers, agencies, and other interested businesses that are frequently engaged in competition with each other, the United States Department of Justice has taken the position that

the MRC cannot lawfully forbid the commercialization of an unaccredited audience measurement product, without potentially running afoul of antitrust laws. It has been common industry practice to commercialize a new audience measurement product before obtaining accreditation from the MRC. I encourage you to look at the MRC's website to see the list of companies that have followed this industry standard. For example, earlier in this decade Nielsen Media Research repeatedly commercialized its electronics-based technology for measuring television station audiences (known as the "Local People Meter" service) in market after market, without having first obtained accreditation from the MRC. As a matter of fact, our decision to withhold commercialization of the PPM service in Houston until we had received accreditation from the MRC was one of the rare instances where a media audience measurement service has followed that course of conduct.

Permitting commercialization prior to accreditation promotes competition. The accreditation process is a lengthy and expensive endeavor. Accreditation is sought in each market in which the data will be provided to clients, and as a result, audits are conducted for each market. Those audits can be expensive and time-consuming. For example, Arbitron's costs to the independent auditors chosen by the MRC for all of its PPM markets runs on the order of seven figures. To require accreditation as a prerequisite to commercialization would create a barrier to entry for those companies that might be able to afford the research, development, and marketing of a new service, but not the costs of achieving mandatory MRC accreditation.

Radio cannot wait indefinitely for MRC accreditation in order to begin taking advantage of the benefits of electronics-based audience measurement. As I said a few minutes ago, radio is in a fierce competition with other media platforms for audiences and advertisers, and those other platforms are already well along in their migration to measuring their audiences using near-passive electronics technology that is not dependent upon participant self-reporting. We know that the MRC's processes may take a long time. Witness, for example, the experience of Scarborough, a company that provides a qualitative-type of media audience measurement service that differs from the services we provide (incidentally, we at Arbitron are part owners of Scarborough). It took Scarborough many years to receive MRC accreditation for all portions of its service.

As specified by the MRC's Voluntary Code of Conduct, we undergo an extensive audit conducted by an independent auditing firm before any market is commercialized for our PPM service. Although the MRC has not established quantitative thresholds for accreditation, the outside audit is designed to evaluate a media audience measurement service's compliance with the MRC standards for accreditation. Based upon those audits, we believe that our PPM service produces a reliable data set for the buying and selling of radio advertisements.

Some of our critics have pointed out that the MRC denied our accreditation application in Philadelphia and New York; that is correct. But we promptly re-applied, and we are now awaiting word from the MRC on our re-applications. We are currently pursuing and will continue to pursue MRC accreditation in each and every market where we commercialize our PPM offering.

Some of our critics have also pointed out that the MRC's accreditation of our PPM service in Houston involved a service in which we recruited some of the panelists by in-person

contacts, whereas the PPM service that has been commercialized in other markets – which we call “Radio First” – did not involve in-person recruitment. We have demonstrated that the sample quality, compliance metrics, and ratings results from the panelists in our Radio First markets, where recruitment is via the telephone, do not materially differ from the sample quality, compliance metrics, and ratings results from the panelists recruited in Houston. In fact, in-person recruitment has its drawbacks, including accessibility challenges posed by gated communities or secured apartment buildings, and difficulties posed by the reluctance of some individuals to open the door to a stranger. Moreover, the telephone-based recruitment methodology used in the Radio First markets is largely the same as the recruitment methodology used for decades with the diary service (except for the inclusion of cell-phone-only households, which were not initially included in the diary service). We have submitted data to the FCC establishing the comparability of panel performance in Houston and the Radio First markets, and again we would be happy to share those data with the Committee and review them with you. One more point about Radio First: the MRC’s grant of accreditation earlier this year in Riverside-San Bernardino was for our Radio First service, which is the same service that we have commercialized in the other markets and for which we are currently seeking MRC accreditation in those markets.

Before leaving the subject of the MRC, I’d like to respond to concerns that we have heard expressed, to the effect that Arbitron was less than cooperative with the Committee’s request for documents from the MRC related to our applications for MRC accreditation in some markets. As is the case with all participants in the MRC accreditation process, Arbitron has standard non-disclosure agreements in place with the MRC in order to protect proprietary and competitively-sensitive information. At the time of the Committee’s request to the MRC for certain documents, our representative in New York was negotiating with the Committee’s staff in order to try to limit the scope of the documents which the Committee was requesting from Arbitron and the MRC and for which a waiver of our non-disclosure agreement with the MRC would be required in order for the MRC to release such documents; it’s obviously a good business practice to limit, as much as possible, the amount of such proprietary and competitively-sensitive information that would be released to the Committee – after all, that’s the very purpose of the non-disclosure agreement.

While those negotiations were ongoing between our representative and the Committee’s staff, we did not want to give the MRC waivers of the non-disclosure agreements. Unfortunately, these simultaneous and parallel conversations between our representative and the Committee’s staff, on the one hand, and between ourselves and the MRC, on the other hand, led to a misunderstanding or a miscommunication, where our conduct was misinterpreted as attempting to prevent the MRC from complying with the Committee’s document request. That was certainly not our intent, and we were as surprised as anyone when we learned that the Committee had subpoenaed the documents in question from the MRC. We wish to reiterate and to confirm our willingness to cooperate with the Committee’s investigation.

As a related matter, I have attached to my testimony, as Appendix I, our point-by-point response to the Committee’s September 22, 2009 Press Release, which found fault (we believe mistakenly) with our PPM samples, particularly with reference to the New York market.

I also want to address the fact that we have encountered some litigation in the process of commercializing our PPM service over the past two years. The Attorneys General in the States of New York, New Jersey, and Florida have filed actions in the state courts of those states, alleging that our Radio First service violates various state statutes dealing with unfair business practices, false advertising, consumer fraud, illegal discrimination, and the like. We have responded to the actions in New York and New Jersey by entering into settlement agreements with the Attorneys General of those two states. Pursuant to those settlement agreements, we have agreed to focus on satisfying certain quantitative benchmarks in the ongoing process of commercializing the PPM service in those states, and we believe that we are meeting our obligations in those settlement agreements, which require us in many instances to take all reasonable measures to meet the benchmarks. Likewise, we reached a similar agreement with the Attorney General of the State of Maryland, and we believe that we are in compliance with our undertakings in that agreement. We have not been enjoined from providing our service in any jurisdiction. As for the Florida matter, because the litigation is still underway, we cannot discuss that situation in any detail.

As you know, the Federal Communications Commission has also launched an inquiry into our PPM service. We have filed extensive comments and other filings with the FCC, in the aggregate running to hundreds of pages in length, in which we have explained how our PPM service works, why it represents an improvement over the diary service, and why radio needs the kind of accountability, granularity, and timeliness that the PPM technology can deliver. Our submissions to the FCC have also answered numerous very specific questions that the FCC has put to us. We have also participated in numerous private meetings with the FCC Commissioners and their staffs.

While we have been fully forthcoming with the FCC in the spirit of cooperation, we have also repeatedly emphasized that the FCC does not have jurisdiction over our company or over our PPM service. That is based upon the fact that the Congress itself has considered, but never adopted, legislation giving the FCC that jurisdiction, going as far back as the 1960s when Congress held hearings that led to the formation of the MRC, and as recently as 2005, when Congress was looking at possible federal regulation of Nielsen's Local People Meter service. That is also based upon the fact that the FCC in 1980 specifically declared that it did not have jurisdiction over audience measurement services, a view that the FCC's staff reaffirmed just a little over a year ago. And that is based upon the fact that the courts – especially the court that most commonly reviews FCC orders, namely, the U.S. Court of Appeals for the District of Columbia Circuit – have repeatedly told the FCC that when it seeks to regulate activities that are related to “communications by wire or radio,” but that are not themselves directly involved in “communications by wire or radio,” there must be a specific delegation in the Communications Act giving the FCC that authority; and there is no delegation in the Communications Act to the FCC to regulate media audience measurement services.

I want to emphasize that our company is a vendor to the radio industry; they are our clients and customers. We have every conceivable economic stake in the success and prosperity of radio. This is especially true for minority-owned and minority-oriented radio stations. We know that the industry is under great pressure at the moment from a multitude of causes, most of which are beyond our or our radio clients' ability to control. These include the recession, the fact that audiences (especially younger people) are migrating away from the traditional broadcast

media and towards more personalized and customized platforms for consuming audio information and entertainment, such as iPods and MP3 players; and the aggressive practices of some lenders in enforcing their loan covenants and default remedies against radio-station borrowers who, for a variety of reasons (including the two that I just mentioned), are not able to generate the cash flows on which those covenants were based as recently as a few years ago when the radio industry was enjoying relatively good financial health.

Our commitment as a company is to provide the most reliable audience measurement data that current technology enables, consistent with the costing and pricing realities of the contemporary radio marketplace. We believe that we achieve that goal through our development and ongoing refinement of the PPM service. We also believe that in the midst of the challenges that currently beset the radio industry, our PPM technology represents an important and positive innovation that will help radio in a time of great need.

Thank you for listening to our story and for giving us your time and attention. We look forward to working with the Committee to help advance the interests of radio, most especially including radio stations that are owned by minorities and those that serve the minority communities in our country.

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**APPENDIX I:
RESPONSE TO ISSUES RAISED IN THE COMMITTEE'S
SEPTEMBER 22, 2009 PRESS RELEASE**

On September 22, 2009, after reviewing documents related to the Media Rating Council's assessment of Arbitron's Portable People Meter™ or PPM™ service, the Committee issued a press release summarizing certain key findings. At this time, Arbitron would like to respond to the issues raised in the press release.

First, the press release reported that the Media Rating Council ("MRC") "refused to grant accreditation to PPM for use in all markets across the United States except for Houston and Riverside-San Bernardino." It is correct that the MRC denied accreditation to the PPM service in New York and Philadelphia and accredited the PPM service in Houston and Riverside-San Bernardino. In New York and Philadelphia, Arbitron promptly re-applied for accreditation, and is currently awaiting the MRC's determination. In the other 21 markets where Arbitron's PPM service has been deployed as currency, Arbitron has sought accreditation and is currently awaiting the MRC's initial determination.

The press release also noted that the "MRC found 'persistent problems' with Arbitron's minority sample audiences across the country," and cited as an example New York City 2008 Census data which indicated that "African Americans comprised 25 percent and Hispanics comprised 27

percent of the City's population." However, the Census data cited in the press release does not appear to reflect the New York market measured by Arbitron.

The New York metro area as measured by Arbitron is based upon radio listening patterns and is broader than just the New York City area. For 2008, the Census-based population estimates indicated that African-Americans comprised 17.7% and Hispanics comprised 21.5% of the New York metro area as measured by Arbitron. (In 2009, those numbers are 17.7% and 21.8%.)

Since Arbitron over-samples the Middlesex-Somerset-Union and Nassau-Suffolk areas of the New York market, which have smaller minority populations, in order to provide separate reports for those areas, the most direct assessment of minority representation in the New York City market is made by excluding panelists from the Nassau and Middlesex markets. Data from the past six months as shown in the table below indicate that our panels are consistently representing Black, Hispanic and Spanish-dominant Hispanics at or above their population percentages.

Table: Distribution by Race/Ethnicity/Language for New York Metro Excluding Nassau-Suffolk and Middlesex-Somerset-Union

Demographic	Distribution of Population (Oct. 2008-Sept. 2009)	Distribution of Panelists Providing Useable PPM Data*					
		May 2009	June 2009	July 2009	Aug. 2009	Sept. 2009	Oct. 2009
Black Persons 6+	19.9%**	20.0%	19.9%	20.2%	20.8%	20.8%	20.6%
Hispanic Persons 6+	23.9%	27.3%	27.2%	24.9%	24.1%	23.7%	25.0%
Other Persons 6+	56.2%**	52.8%	52.9%	54.8%	55.2%	55.5%	54.4%
Hispanic (English Dominant)	10.8%	12.9%	12.4%	11.5%	10.4%	9.8%	11.2%
Hispanic (Spanish Dominant)	13.1%	14.4%	14.9%	13.4%	13.7%	13.9%	13.8%

*Percentages are derived by dividing the number of in-tab panelists in the specified demographic group by the total number of in-tab panelists (meaning the total number of panelists supplying usable data that is included in Arbitron's ratings reports).

**For October 2009-September 2010, the percentage of Black Persons aged six and older is 19.8%, and the percentage of Other Persons aged six and older is 56.3%.

Current minority representation for all markets is available in the PPM Monthly Client Briefing, which is available on Arbitron's website at http://www.arbitron.com/portable_people_meters/home.htm.

The press release also noted that Arbitron's ratings are based on an "unacceptably low percentage of [the] sample audiences." As an example, the press release again cited to New York, stating that "there is an average of 5400 sample audience participants, [but] Arbitron uses only the data submitted by 2700 persons or 50% of the sample audience in order to create radio station ratings. Therefore, the radio listening habits of over four million ethnic minorities are represented by only 500 Arbitron recruits."

While the source of these numbers is not clear, they do not accurately reflect PPM panelist usability rates. In the past six months (May 2009-October 2009), an average of 5,258 persons per month or 96% of installed New York panelists have provided usable data for each monthly

report, with an average of 3,841 persons or 76% providing usable data on a daily basis. (For comparison purposes, in the last diary survey in New York, 51% of the persons surveyed returned usable diaries.) For each reporting period, on average, 2,026 Black and Hispanic panelists provide data, with 1,469 providing data every day.

Finally, the press release noted that the “MRC found that Arbitron has made an insufficient effort to use bilingual interviewers to recruit Spanish dominant Hispanic sample participants.” We are unaware of any MRC finding that Arbitron’s efforts to recruit Spanish-language-dominant Hispanics are insufficient.

Currently, in high-density Hispanic residential areas, bilingual pre-alert mailings are sent to all households and the first telephone call to these phone numbers is made by a bilingual interviewer. All Hispanic households (regardless of their geographic area) are sent bilingual recruitment materials, and bilingual Panel Relations Specialists are assigned to make phone calls to panel households that have any Spanish speaking members. In fact, rather than under-representing Spanish-language-dominant households, the converse is true. The New York metro sample has consistently represented Spanish-language-dominant Hispanics at or above the total percentage in the population, and in the past six months, Arbitron has taken steps to ensure that the sample population more closely approximates the Census-reported population. As noted above, as of October 2009, 13.8% of the New York metro PPM sample was Spanish-language dominant, as compared to 13.1% of the population.

Chairman TOWNS. Thank you very much.
Mr. Ivie.

STATEMENT OF GEORGE IVIE

Mr. IVIE. Chairman Towns, Ranking Member Issa and members of the committee, my name is George Ivie.

For the last 10 years, I have served as the executive director and CEO of the Media Rating Council.

I would like to thank Chairman Towns, Ranking Member Issa and the committee for the opportunity to testify this morning on Arbitron's Portable People Meter Rating Service.

Before joining the MRC, I worked with Ernst & Young as lead partner on all MRC audits. Including my 10 years as executive director, I have over 25 years experience in auditing rating service methodologies and I have presided over and conducted many hundreds of these audits.

Forty-five years ago, Congress addressed the same issue this committee faces today, namely the accuracy and reliability of audience research. At that time, after extensive testimony and careful consideration, Congress reached three basic conclusions.

First, there was a need for professional, independent review of audience rating services. Second, that industry self regulation rather than the hand of direct government regulation was the best means of assuring quality and accuracy of audience rating data. Third, through Federal laws regulating any competitive conduct and deceptive practices, the Federal Government retained the means to deal with serious consumer impacting abuses. The MRC ultimately emerged based on the suggestions received during these congressional deliberations.

Just as Congress envisioned, our only business is to review and accredit audience rating services through rigorous, independent, and objective audits. One of the hallmarks of our auditing procedures is that participating research organizations must be totally transparent to us, driving our confidentiality requirements which were originally recommended by Congress.

We are independent of the rating services we review. The only funds we accept from rating services are the payments for their CPA audits which are passed through in full to the CPA firms we engage. As described in my written testimony, the MRC has adopted stringent safeguards to assure that accreditation decisions are based only on the merits.

We appreciate the committee's interest in the merits of the PPM services and of particular importance, its concern that PPM services may fail to accurately represent the listening preferences of minority audiences. Through cooperation with the committee's subpoena, we have made audits and our related correspondence available for your review. We hope our diligence, expertise, and due process is apparent from this documentation.

From the standpoint of the MRC's role and mission and what we are qualified to observe, I see two distinct issues: first, whether the PPM technology itself is an improvement in terms of measurement accuracy; and, second, how this technology is being implemented by Arbitron in the markets of interest. Let me quickly address the first issue.

There is little doubt and, in fact, there exists a broad industry consensus that electronic measurement such as Arbitron's PPM technology can represent an improvement over existing non-electronic audience measurement when implemented diligently.

In the second area, the implementation details, the MRC has ongoing concerns. Perhaps most important, in our opinion, Arbitron has failed to demonstrate that the PPM services can attain sufficient performance metrics among certain mostly younger panelists across most markets on a sustained basis. The company continues to introduce numerous new PPM markets without having solved this issue. We have ongoing concerns and dialog surrounding several measurement issues. Despite efforts to improve an extensive cooperation from Arbitron with the MRC, these issues remain a concern today.

Attached to our written testimony, reference Attachment F, is a series of key performance indicator charts that illustrate a decline in tabulation rates among young adult panelists during the period from January 2009 to September 2009. This was considered by our committee in the last audit review meeting of the PPM services.

In almost all cases, young adult, African-American panelists show even worse performance than these general charts indicate. These charts also show response rates referred to as SPI for the market, some of which are considered low by the committee. Arbitron is in the process of adding significant staff and implementing other improvements intended to stem the tabulation rights declines. In Attachment G of our written testimony, you can see the results of that for a short period in October.

Arbitron has been participating in the accreditation process fully. However, the fact remains that Arbitron's R&D process for the improvements required by the MRC have been ongoing, post commercialization for over 20 unaccredited markets. We have several recommendations on record with Arbitron to address these matters.

In closing, the MRC has strived for four decades to be faithful to the mission Congress suggested for us. We hope the committee agrees that Arbitron should remain committed to the MRC process, maintain focus on the audit and methodological issues we raise, and ultimately focus on gaining the marketplace assurance of MRC accreditation of its PPM services as soon as possible.

Thank you.

[The prepared statement of Mr. Ivie follows:]

**Written Testimony of George W. Ivie
Executive Director and CEO, Media Rating Council, Inc.**

**Submitted to the Committee on Oversight and Government Reform
U.S. House of Representatives
December 2, 2009**

Good morning Chairman Towns, Ranking Member Issa, and Members of the Committee. My name is George Ivie, and I am the Executive Director and CEO of the Media Rating Council, or MRC. I am here today to talk about the history and mission of the MRC, and to explain our accreditation-related policies and procedures as they relate to the current situation involving the rollout of Arbitron's Portable People Meter (PPM) services. We appreciate the Committee's interest in the accuracy of radio ratings and we are willing to render whatever assistance is necessary.

The MRC has strived for nearly five decades to be faithful to the mission that Congress suggested for it at our inception. Congress originally reached the conclusion back in the 1960s that Industry self-regulation of rating services was preferable to government regulation and we believe this conclusion remains relevant and appropriate today. Our process is sound and we believe that any attempt to replicate our Industry representation and expertise would be difficult, if not impossible. We look forward to working with the Committee as it addresses the issues before it today.

I. Introduction to the Media Rating Council

The MRC is a non-profit organization that reviews and accredits audience-rating services through the use of rigorous audits. An MRC audit includes an independent, detailed, and objective examination of each aspect of the operations of a rating service (including

methodological protocols) through data provided by participating rating services. The central mission of the MRC is to secure for the media industry audience measurement services that are valid, reliable, and effective through an independent evaluation process, without regard to outcome. The MRC is independent of any rating service and guards its independence zealously.

1. History and Mission of the MRC

During 1963 and 1964, regulation of certain aspects of the TV and Radio industries, including the purpose and accuracy of audience research, were the subjects of extensive public hearings. This process culminated with a progress report issued to the 89th Congress of the United States (House Report No. 1212)¹ in January 1966. These hearings were held by a Special Subcommittee on Investigations of the House of Representatives Committee on Interstate and Foreign Commerce and are commonly referred to as the “Harris Committee Hearings on Broadcast Ratings.”

After an extensive investigation and three days of testimony, the Committee determined that Industry self-regulation, including independent audits of rating services (such as The Nielsen Company or Arbitron), was preferable to government intervention. In its report, the Committee concluded as follows: “The enactment, at this time, of legislation providing for government regulation of broadcast audience measurement activities is not advisable. The administration of a statute providing for such regulation would place an unnecessary burden on the Federal Government, and it is doubtful that more would be accomplished than can be accomplished by effective industry regulation.”²

¹ House Rpt. No. 1212, 89th Congress (1966).

² Id. at p. 21.

The Harris Committee hearings resulted in the formation of an Industry-funded organization to review and accredit audience-rating services called the Broadcast Rating Council (“BRC,” now known as the MRC). At that time, the Broadcast Rating Council’s proposed Industry self-regulation procedures were reviewed by the U.S. Department of Justice (“DOJ”) and were found not to be in violation of the antitrust laws.³ Recently, the DOJ reexamined MRC as part of reviewing our new Voluntary Code of Conduct⁴ (“VCOC”) and no concerns were noted.⁵

Aligned with the actions deemed necessary by the Harris Committee, the activities of the MRC include, but are not limited to, the following:

- The establishment and administration of Minimum Standards for rating operations;
- The Accreditation of rating services on the basis of information submitted by such services; and
- Auditing, through independent CPA firms, of the activities of the rating services.

The MRC’s mission as stated in our By-laws is: “to secure for the media industry and related users audience measurement services that are valid, reliable and effective; to evolve and determine minimum disclosure and ethical criteria for media audience measurement services; and to provide and administer an audit system designed to inform users as to whether such audience measurements are conducted in conformance with the criteria and procedures

³ Letter from William Orrick, Jr. Assistant Attorney General, Antitrust Division, U.S. Department of Justice to Douglas A. Anello, General Counsel, National Association of Broadcasters (July 16, 1964).

⁴ MRC Voluntary Code of Conduct – Adopted by MRC Board of Directors, December 2008, Measurement Service Adoption In-Process (Exhibit B).

⁵ Department of Justice Press Release dated April 11, 2008 (Exhibit C).

developed.”⁶ This mission was established with the support and guidance of the House Committee.

2. Standards

Consistent with its By-laws and its mission, the BRC developed minimum standards by which media research is to be measured, which became effective on March 31, 1964 and have been maintained and updated by the MRC Board of Directors.⁷ The Standards relate to: (a) ethics and operations, (b) disclosures, and (C) electronic delivery of audience data. Ethical and Operational Standards govern the quality and integrity of the entire process by which ratings are produced. Disclosure Standards specify the detailed information about a rating service’s methodology and each specific survey which must be made available to users, the MRC and its CPA firm, as well as the form in which the information should be made available. Electronic Delivery Standards provide best practices for controls and disclosures in electronic tools that deliver audience data to the customer of a rating service.

3. MRC Accreditation Process

The MRC Accreditation process is completely voluntary and there is no legal or compulsory requirement that a rating service submit to an MRC audit. The MRC lends its “seal of approval” to rating services that demonstrate compliance with MRC’s Minimum Standards for Media Rating Research and that make complete methodological and survey-performance disclosures to their customers after completing an extensive audit. Over fifty rating service

⁶ MRC By-Laws. – Board of Directors, Media Rating Council, Effective March 1964, Updated June 2005 (Exhibit A).

⁷ See Minimum Standards for Media Rating Research, Media Rating Council, Inc. (last updated December 1999) (Exhibit D).

products were submitted to the MRC Accreditation process last year. Of these products, many represented media types other than radio.

Accreditation is granted by the MRC Board of Directors if a rating service complies with the MRC's Minimum Standards for Media Rating Research and makes materially complete methodological and survey-performance disclosures to their customers. The MRC also assesses the reasonableness of performance metrics of the rating service in the execution of its chosen methodology (a diary technique, a meter-based technique, telephone recruitment, in-person recruitment, etc.), such as response rates and cooperation rates with measurement instruments, as part of assessing compliance with our Minimum Standards.

The MRC has used several nationally known CPA firms throughout the years to perform audits. At present, the audits are conducted by Ernst & Young, Deloitte & Touche, and PricewaterhouseCoopers, under contract to the MRC. Each rating service agrees to pay MRC assessments to cover their audit costs; the MRC collects no funds from a rating service other than the direct cost of the CPA audits. It is important to understand that the MRC derives no benefit, financial or otherwise, from the rating service. MRC's sole revenue stream is derived from the dues paid to it by its members.

Ernst & Young conducts all MRC audits involving rating services that rely on sampling or audience survey techniques. Ernst & Young maintains a specialized group of personnel who have responsibility for auditing rating service operations and assessing compliance with MRC Standards which are applied considering the unique aspects of each service's methodology. This team only works on media rating service audits. Deloitte & Touche and PricewaterhouseCoopers, as well as Ernst & Young, work with the MRC on audits of census

Internet measurement activity (for example, ads served by Internet publishers and third-party advertising organizations).

The central element in the monitoring activity of the MRC is its system of annual external audits of rating service operations. MRC audits serve the following important functions:

- They determine whether a rating service merits Accreditation (or continued Accreditation); the audit report and related insight provided by the CPA firm is the primary input into the Accreditation decision;
- They provide the MRC with the results of detailed examinations by CPA auditors which become the basis for quality improvements in the service, either by voluntary action or mandated by MRC as a condition for Accreditation; and
- They provide a highly beneficial psychological effect on rating service performance. Knowledge that CPA auditors may review their work is a powerful spur for quality work by all field and home-office personnel of the rating service.

The specific methodological approach of the rating service and the MRC Minimum Standards for Media Rating Research are the primary drivers of the audit scope for each participating rating service, which is then executed by the CPA firm on behalf of the MRC. At minimum, audits are required to be conducted annually. An audit committee, made up of member organizations that have an interest in research of that media-type, is created to evaluate audit results. The audit committee, upon completion of its evaluation, recommends a position on "Accreditation" to me in my role as Executive Director of the MRC. I then submit this recommendation including my assessment to the operating committee and to the MRC Board of Directors. Provision is also made for the suspension or withdrawal of Accreditation, and a documented, formal hearing procedure applies in such instances.

Our audits include an independent, detailed and objective examination of each significant aspect of the operations of a rating service. In the event that a rating service uses outside professional vendors (for example, for sampling procedures or for editing and tabulation of data) these sources are also audited and reported upon.

Resulting audit reports are very detailed, ranging up to 400 pages in length depending on methodological complexity and compliance risks, and contain many methodological and proprietary details of the rating service and illumination of the primary strengths and weaknesses of its operations. MRC members are required to execute a non disclosure agreement as these audit reports are confidential among MRC members, the CPA firm and the rating service. Audit reports include detailed testing and findings regarding:

- Sample design, selection, and recruitment;
- Sample composition by demographic group;
- Data collection and fieldwork;
- Metering, diary or interviewing accuracy;
- Editing and tabulation procedures;
- Data processing;
- Ratings calculations; and
- Assessment of rating service disclosures of methodology and survey performance.

Pursuant to the last point, the MRC mandates that rating services disclose many methodology and performance measures, which would be otherwise unknown; for example:

- Source of sample frame;
- Selection method;
- Respondents by demographic group versus population;
- Response rates;
- Existence of special survey treatments for difficult to recruit respondent groups such as young or ethnic persons;
- Editing procedures;

- Minimum reporting requirements for media;
- Ascription and data adjustment procedures employed;
- Errors noted in published reports; and
- Data reissue standards and reissue instances

Because of the disclosures a rating service must make in complying with the MRC Accreditation process, specific audit findings are not disseminated to the public or the press unless the rating service, the MRC, and the CPA firm that conducted the audit affirmatively agree to disclose the audit results. Public disclosure of proprietary techniques can be detrimental to a rating service's core business, for example endangering patented information, and the MRC takes very seriously our obligation to keep proprietary information, as well as audit reports, confidential.

As a result of this policy, MRC does not comment publicly on audit results. MRC can only publicly comment on its decision to grant, deny, suspend or withdraw Accreditation without the consent of the rating service and the independent CPA auditing firm. Exhibit E provides the current status of accreditation proceedings for all Arbitron PPM Services submitted to the MRC process by Arbitron. Exhibit F includes a series of charts that illustrate certain key PPM sample performance trends from January through September 2009 (in this instance, the average daily intab rates among PPM panelists between the ages of 18 and 34, and Sample Performance Indicator levels for those PPM markets that are unaccredited and were commercialized as of March 2009); these represent examples of some of the key sample performance metrics the audit committee considered in its most recent deliberations. Exhibit G presents these same panel statistics, but is updated to include the period from January through October 2009, based on information that was recently provided to us by Arbitron.

Rating services that are awarded MRC Accreditation are given permission to display our “Double Checkmarks” logo on the audited research product indicating compliance with our Standards. MRC Standards are publicly available. More importantly, the extensive methodological and survey performance disclosures mandated by the MRC are required to be available to all rating service customers.

II. MRC Membership, Membership Participation and “Due Process”

1. Membership

Membership in the MRC is completely voluntary and members pay annual dues of \$12,500. Generally speaking each member pays the same amount regardless of the overall size of its organization. However, in 2006 the MRC established a small-member dues category for organizations with less than \$10 million in gross annual revenue, where these organizations pay half-dues (\$6,250) and retain full membership and voting privileges. The small-member category was established to help ensure equal access to the MRC evaluation process to small media organizations. For a point of comparison, in 1964, when the MRC commenced operations, membership dues were \$7,500 per year.

The Board of Directors of the MRC is comprised of one appointed representative, generally a top media research executive, for each member organization. Currently there are approximately 115 Board members, representing television and radio broadcasting, cable, print, Internet and advertising agency organizations, as well as advertisers and other trade associations.⁸ As indicated by our membership list, MRC represents a very broad and diverse amalgamation of the media industry. Additionally, we have a provision for formal liaison

⁸ Full membership list is attached (Exhibit H).

relationships with the American Association of Advertising Agencies, the Advertising Research Foundation and the Association of National Advertisers. MRC membership is open to any media organization that relies on, or uses, media research, and presently includes general-market large media organizations (e.g., ABC, CBS, FOX, NBC and Univision), smaller media organizations (e.g., American Urban Radio Networks) and buy-side organizations such as advertisers and advertising agencies. Conversely, organizations such as Nielsen or Arbitron that produce media ratings data are not permitted to join the MRC.

2. Membership Participation

MRC members play a critical role in the Accreditation process and provide valuable insight about the use of research. MRC members are organized into operating committees by media-type – Internet, Out-of-Home, Print, Radio and Television. The MRC’s Radio Committee is comprised of individual representatives from various member organizations that have an interest in the accuracy and quality of radio audience research. The individuals who sit on these operating committees are often the top media researchers of their organizations. Generally speaking, radio executives or representatives of an organization’s marketing division do not sit on these committees, although for smaller organizations the research function may be combined with other executive functions. It is in these operating committees, and audit sub-committees (a.k.a. audit committees) formed for specific audits, along with the MRC staff, that our organization’s role of seeking to ensure valid, reliable and effective radio audience measurement services is performed – by administering the auditing and Accreditation process for radio and other ratings services.

As discussed earlier, it is through the MRC Accreditation process and the use of rigorous, independent audits that a rating service gains MRC Accreditation. However, before

Accreditation can be achieved, the audit committee is tasked with reviewing a draft of the rating service audit and discussing the results in detail with the CPA auditor and the MRC staff. Additionally, the rating service has the opportunity to provide its comments either in the audit report itself or in a separate letter supplied to the audit committee. The audit process is confidential and strict guidelines and procedures are followed during this review because of the transparency requirement that a rating service must meet in order to gain MRC Accreditation.

Once a full review of the audit has been completed, the MRC staff presents a “staff recommendation” to the audit committee on whether, in its opinion considering all the available data, the rating service should be accredited. This recommendation is prepared to serve as an initial basis for discussion and to help guide the audit committee as it weighs its decision on Accreditation. The audit committee will then vote on Accreditation, which in turn serves as a recommendation for the MRC Executive Director to take to the operating committee and full MRC Board of Directors for final approval. The Executive Director will present the recommendation of the audit committee to these bodies with his assessment. The full Board then has the responsibility and ultimate authority to vote to grant or deny Accreditation.

3. “Due Process”

One very important aspect of the voting and approval process is the controls and safeguards that are in place to assure that the audit committee is fair and impartial. The MRC has a formal policy for membership voting on MRC Accreditation issues that sets forth stringent controls and eliminates the potential for outside influence, during and subsequent to the voting procedure. The policy is not intended to stifle the thoughtful discussion that takes place in preparation of the proposals, but rather it is designed to ensure a more proper accounting of ballots and to maintain the confidentiality of meeting proceedings. Specifically, it:

- Verifies that all votes are accounted for;
- Reduces the likelihood of miscounting votes;
- Limits the influence of any one member organization, or collective segments of the Industry;
- Minimizes the information that can potentially be divulged to Non-Members, in violation of the signed confidentiality agreement;
- Maintains a physical record of the vote; and
- Provides a means for verification.

Voting within the MRC can occur at various levels and follows a pre-established hierarchy. What follows is an outline of the levels at which voting may take place, and includes a summary of the MRC members that are entitled to participate and the responsibility of each group.

- *Sub-committee(s)* –

As I previously noted, subcommittees are comprised of a subset of individuals from the applicable MRC Operating Committees responsible for oversight of the measurement service. Any committee member claiming to have a business or professional interest in the matter at hand can elect to participate in a sub-committee. The MRC staff works to ensure that the various segments of the industry are represented in the sub-committee. The sub-committee is responsible for undertaking a detailed review of the audit. Multiple sub-committee meetings may be held depending on the complexity of audit issues. This process is administered by the MRC staff and, as previously noted, votes from these sub-committees constitute recommendations for the MRC Executive Director in making recommendations to the operating committee and MRC Board of Directors regarding Accreditation of a rating service.

- *Committees* –

MRC Operating Committees are comprised of MRC members who have a business or professional interest in the medium for which the committee has oversight. These committees may be asked to undertake a detailed review based on the complexity of an issue associated with an audit. The committee votes whether to accept the recommendation of the sub-committee along with the assessment of the Executive Director, and its vote is structured to make a recommendation and provide further guidance to the Executive Director. A quorum of committee members is required on all voting matters and a tie vote will necessitate re-evaluation by the committee or, if the tie is persistent, a detailed review by the MRC Board of Directors.

- *Board of Directors*

The Board of Directors represents all active members of the MRC and it votes on the recommendation submitted by the Executive Director. In addition, the Board is responsible for the final vote on all Accreditation issues. A quorum is required on all voting matters.

- *Executive Director*

The Executive Director is responsible for making an accreditation recommendation to the Board of Directors. His recommendation takes into consideration the recommendation of the committee(s), although he is not required to recommend the committee(s) position to the Board. In the event that the Executive Director's recommendation differs from that submitted by the committee(s), the Executive Director must convene a board meeting to discuss in detail any difference. The Executive Director has the authority to take any issue directly to the Board of Directors for a vote.

- *Voting Guidelines*

All active Board Members are entitled to a vote in the Accreditation process. A member company designates the representative(s) to attend meetings and vote. The MRC recommends

the voting representative be a senior ranking individual with knowledge of the subject matter. When a detailed review of the subject matter is called for, the voting representative must be in attendance for the majority of the review meeting. Any representative not in attendance for the full meeting will be allowed to vote at the discretion of MRC Executive Director. A member company representative may participate in person, via phone or video-conference. In addition, a representative that participates in person is required to vote in writing. Those representatives participating via electronic means (e.g. phone, etc.) have the option to cast votes via personal call to MRC staff, fax, or e-mail. Verbal votes require follow-up written (e.g. fax, e-mail, etc.) confirmation.

- *Special Circumstances*

Special circumstances arise when an MRC member's company has a vested interest in the matter being considered. When this occurs, that member may participate in the review meeting but will not be allowed to vote. Situations of this nature will be disclosed prior to the start of the review meeting. Any unanticipated voting conflicts are to be resolved by the MRC Executive Director.

- *Voting Results*

Upon completion of a vote, the rating service is advised of the final outcome as soon as possible. Summary voting results may be divulged to the rating service when deemed appropriate by the Executive Director. Individual Member votes will not be divulged by the MRC although members are free to state their voting intention prior to the official vote. Members may divulge their individual vote outside of the meeting subject to the policy of the signed Non-Disclosure Agreement on record at the MRC.

- *Recent Government Activity*

Beginning in 2004, the MRC was involved in a matter when another rating service, Nielsen, was implementing a new measurement methodology for television called the Local People Meter (LPM). This measurement methodology garnered the attention of Government officials including Congress and the Federal Trade Commission (FTC), which in turn led to a focus on the adequacy of the MRC accreditation process. At that time the MRC worked directly with various House and Senate committees, as well as with the FTC, in a cooperative manner. After completing their review, none of the committees recommended or requested changes to the MRC process. Additionally, the FTC issued a letter which was supportive of the MRC's Accreditation process.⁹

Starting in 2006, the MRC developed member consensus and rating service agreement around a Voluntary Code of Conduct ("VCOC"). In order to ensure this new document did not endanger our original approval by the DOJ (which had approved the structure of the BRC when it was first founded), the MRC submitted this document to the U.S. Department of Justice Antitrust Division for a business review. The VCOC committed pre-existing MRC processes to writing and stated new expectations surrounding introduction of new currency measurement products; the new areas were the focus of the DOJ business review. In April 2008, the DOJ completed this review and noted that it planned no action related to MRC. In December of 2008, the VCOC was formally adopted by the MRC Board of Directors and we have begun the process of seeking formal commitment to the VCOC from each rating service participating in the MRC process.

⁹ Letter from Deborah Platt Majoras, FTC Chairman, dated March 25, 2005 (Exhibit G).

We believe these recent activities reaffirmed the MRC's mission and our important role in the oversight of ratings services, just as it was originally established at the recommendation of Congress.

III. Conclusion

We strongly believe that the MRC's processes, originally developed with input from Congress over 45 years ago, and that continue to be refined, are extremely important and sufficient to accomplish our mission "to secure for the media industry and related users audience measurement services that are valid, reliable and effective," inclusive of the sampling methodology and resulting audience measurements.

As always, the MRC is prepared to work with the Congress and all appropriate governmental bodies to ensure a complete understanding of our processes and of the role we play within the media industry. We believe that MRC's history, our extensive member participation, our member and staff expertise, and the strength of our accreditation process demonstrates that it would be difficult for any entity to replace the MRC's critical function of assessing the accuracy and quality of ratings services. We believe the MRC should continue to play the central role in assessing the accuracy and quality of ratings services, and we look forward to working with the Committee as it looks into the current matter concerning Arbitron's PPM services.

EXHIBIT A

**BY-LAWS
OF
MEDIA RATING COUNCIL, INC.
(Revised June 2005)**

ARTICLE I

The name of the Corporation shall be Media Rating Council, Inc.

ARTICLE II

OBJECT

· The objectives or purposes to be promoted or carried on by this corporation are: to secure for the media industry and related users audience measurement services that are valid, reliable and effective; to evolve and determine minimum disclosure and ethical criteria for media audience measurement services; to provide and administer an audit system designed to inform users as to whether such audience measurements are conducted in conformance with the criteria and procedures developed.

ARTICLE III

MEMBERSHIP

Section 1. *Definition of Membership.* There shall be two kinds of members: active and associate.

A. ACTIVE MEMBERS. The active membership of this corporation shall consist of media networks, media owners, media-related trade associations, advertising agencies and advertisers.

Other organizations may, subject to the approval of the Board of Directors, be eligible for active membership under the conditions and terms prescribed herein for all members.

The active membership of this Corporation shall be represented in terms of membership groups. These groups shall be established as follows:

- Radio Broadcast Trade Associations
- Television Broadcast Trade Associations
- Cable Television Trade Associations
- Magazine Trade Associations
- Newspaper Trade Associations
- Radio Broadcast Networks
- Television Broadcast Networks
- Cable Television Networks
- Cable Multiple System Operators and Representatives
- Radio Broadcast Group Owners and Representatives
- Television Broadcast Group Owners and Representatives
- Magazine Publishers
- Newspaper Publishers
- Advertising Agencies
- Advertisers
- Media Full Service Independent
- Other media technologies, including VCRs, videodiscs, videotex, direct broadcast satellites, multi-point distribution systems, Internet, and such others as the Board of Directors may designate.

Each active member shall pay dues for each appointment it is entitled to make to the Board of Director, as herein-after provided, in accordance with a schedule as may be determined and revised by the Board.

Multi-media organizations entitled to make more than one appointment to the Board of Director shall, for each such appointment, be entitled to membership in each appropriate membership group.

B. ASSOCIATE MEMBERS. Any individual, partnership, firm of corporation engaged in a business or profession connected with communications for which the Board of Directors establishes a category of membership eligibility shall, subject to the approval of the Board of Directors, be eligible for associate membership in the corporation. The dues of such associate membership shall be determined by the Board of Directors.

C. MEMBER ACTIVITIES. Members of this corporation agree to:

- Strictly adhere to the terms of the MRC Confidentiality Agreement,

And,

- Not engage in (fund or sponsor) public advertising campaigns or public demonstrations that are designed to influence survey participation by the public, due to the potential impact on measurement quality and respondent cooperation. "Public" campaigns or demonstrations are defined as being directed at the public at-large...for example, beyond media trade-publications or media-Industry representatives.

Public advertising campaigns proposed by a member organization can be submitted to the MRC for review and approval prior to implementation. MRC review procedures will be similar to those specified in the MRC Minimum Standards for Media Rating Research for "Live Testing." The number of members involved in reviewing these submissions and the specific review procedures will be at the discretion of the MRC Executive Director."

D. LOSS OF MEMBERSHIP. Any member who, for a period of three (3) months has failed to pay the dues incident to his membership shall be dropped from membership; provided that, for good and sufficient cause, membership may be extended, thereafter, under conditions to be prescribed by the Board of Directors.

Any membership may be suspended and/or revoked by the Board of Directors for any act which in the judgment of such Board constitutes a willful violation or breach of any of the provisions of the Charter or By-Laws by a majority vote of the entire membership of the Board and under such procedures as the Board shall establish.

Section 2. *Rights and privileges of membership.*

A. ACTIVE MEMBERS. Active members, upon payment of all required dues, shall have the right, as thereafter provided, to appoint the Board of Directors and to elect, one from their membership group, the members of the Executive Committee. In the event of a tie vote for the Executive Committee member from a given category, the Board of Directors shall have the power to break the tie.

B. ASSOCIATE MEMBERS. Associate members shall have such non-voting rights and privileges as may be prescribed from time to time by the Board of Directors.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. *The Board of Directors.*

A. There is no stated limit on the number of members of the Board of Directors. Each active member of the corporation is entitled to appoint one member-representative to the Board of Directors, which must be an employee of that member organization, subject to the terms of the MRC Consultant Policy.

B. The Board of Directors shall be appointed by the active members at the annual meeting of the corporation. All active members in good standing shall be entitled to make appointments to the Board of Directors.

C. **TERM OF OFFICE.** The term of office for all Directors shall be for two years, commencing at the beginning of the fiscal year for the corporation, unless otherwise determined by the appointing organization.

D. The Board of Directors of the corporation shall meet regularly at least once a year at such time and place as a majority of the Board may determine.

E. All powers of the corporation shall be exercised by the Board of Directors, which may delegate to the Executive Committee, officers and to other committees such power as may be necessary and appropriate to achieve the purposes of the corporation, consistent with the terms and conditions established herein.

F. A majority of the Board of Directors shall constitute a quorum for the election of officers and all other purposes. In the absence of the Chairperson of the Board, the members may choose a Chairperson for the meeting.

Section 2. *Powers of the Board.*

The Board of Directors shall have the power to determine the overall policies of the corporation with respect to matters of general interest to all members, including but not limited to the following: (1) to establish and administer a system of accreditation for media audience measurement services; (2) to establish any committees for individual media which may be deemed necessary to aid in the administration of the powers and responsibilities of the Board of Directors; (3) to elect by a majority vote of its members a Chairperson of the Board and an Executive Director, who shall also serve as Secretary-Treasurer, upon such terms and conditions as it may deem proper; (4) to establish an Executive Committee, comprised of the Chairperson of the Board, the Chairperson Ex-Officio, and one representative from each of the aforementioned established committees, to meet periodically and to administer those functions and responsibilities deemed appropriate by the Board of Directors; (5) to direct and delegate powers to its officers and Executive Committee to do all things necessary to carry out the policies, functions and activities of the corporation; (6) to establish a fiscal year for the corporation; (7) to borrow and invest money in behalf of the corporation; (8) to approve the annual budget of the corporation for the fiscal year; (9) to collect and disburse the funds necessary to administer and maintain the audit system referred to herein; (10) to establish a pension plan for the executives and employees of the corporation; (11) to pass on applications for all classes of membership; (12) to prescribe services available to all classes of members; (13) to suspend or terminate such memberships; (14) to determine dues for all classes of members; (15) to determine the time and place of annual membership meeting; (16) to call special meetings of the Board of Directors and membership; (17) to designate the location of the principle corporate office of the corporation; (18) to designate such other offices, as it may determine to be necessary; (19) to delegate such of its powers to committees as may, from time to time, be deemed advisable.

ARTICLE V

OFFICERS OF THE CORPORATION

Section 1. The officers of the corporation shall be the Chairperson of the Board and the Executive Director.

Section 2. *Power and duties of the officers.*

A. CHAIRPERSON OF THE BOARD. At the annual meeting of the Board of Directors, the Board shall elect from its appointed members a Chairperson, whose duty it shall be to preside at meetings of the corporation, of the Executive Committee and of the Board of Directors. The Chairperson shall also be a voting Ex-Officio member of all committees. He or she shall be elected by a majority vote of the entire membership of the Board of Directors and shall have such duties and responsibilities as may be prescribed from time to time by the Board. The Chairperson shall serve until a successor is elected but not more than two years. At the conclusion of the two year term, the Chairperson will become Chairperson Ex-Officio for an additional two years. The Chairperson Ex-Officio shall also be a voting member of all committees. The Chairperson shall name the members of all standing and special committees (but not, as provided herein, the Executive Committee) and shall prescribe their duties. The Chairperson shall have such other powers and duties as may from time to time be prescribed by the Board of Directors.

B. THE EXECUTIVE DIRECTOR.

1. The Executive Director shall be chief executive officer of the corporation and shall be appointed by the Board of Directors. He or she shall have general administrative control and management of the affairs of the corporation with such authority and under such policies as may from time to time be established by the Board of Directors. He or she may also serve as Secretary-Treasurer and can appoint an Assistant Secretary and Assistant Treasurer from the members of the Executive Committee and with the approval of the Chairperson of the Board.

2. The Executive Director shall be responsible for the general administration of Board policies including the employment, direction and supervision of all employees of the corporation, provided no employment contracts shall exceed the term of two years, except with consent of the Board of Directors; he or she shall sign and execute, on behalf of the corporation, all instruments, contracts and other documents which have been approved by the Board of Directors.

3. The Executive Director shall make an annual report to the Board covering progress of the corporation's work; expenditures of the corporation; a proposed fiscal budget for the ensuing year; together with such other matters as shall be in the interest of an orderly administration of the corporation's business.

4. The Executive Director shall serve as a voting member of the Board of Directors, Executive Committee, and all other existing committees.

C. THE SECRETARY-TREASURER.

1. The Secretary-Treasurer shall be the custodian of the properties of the corporation, of the Charter, the By-Laws, and of all other permanent records of the corporation; and shall submit to the Board of Directors an annual report covering the functions and performance of the office.

2. The Secretary-Treasurer shall give notice of all meetings of the entire corporation, of the Executive Committee and of the Board; shall attend such meetings, and make (or have made) and safely keep a record of all proceedings thereof.

3. The Secretary-Treasurer shall collect all dues, and other monies owing to the corporation, place them in approved depositories, and make disbursements thereof as authorized by the Chairperson; shall make a monthly report to the Chairperson and Assistant Treasurer of all receipts and disbursements; at the end of each fiscal year, and shall cause to be made, by a certified public accountant, an audit of the corporation's finances and shall submit the same promptly to the Chairperson.

4. The Secretary-Treasurer shall have such other powers, duties and responsibilities as may, from time to time, be delegated by the Board of Directors.

Section 3. Bonds.

Each officer or other employee of the corporation, entrusted with the custody of handling of its funds or other property, shall furnish, at the expense of the corporation, a fidelity bond, approved by the Board of Directors.

ARTICLE VI

MISCELLANEOUS

Section 1. *Corporate office.*

The principal corporate office of the corporation shall be located at 100 West Tenth Street in the city of Wilmington, County of New Castle, in the State of Delaware, or such place or places as the Board of Directors shall from time to time designate, in accordance with the provisions of law.

Section 2. *Executive and other offices.*

The Executive Office of the corporation shall be located in the city of New York, New York. The corporation may have such other offices as the Board of Directors may determine from time to time.

Section 3. *Seal.*

The corporation shall have a seal of such design as the Board of Directors may adopt.

ARTICLE VII

AMENDMENTS

The By-Laws of this corporation may be amended, repealed or altered in whole or in part by a two-thirds vote of the entire membership of the Board of Directors at any regular or special meeting of the Board.

EXHIBIT B



**Media Rating
Council, Inc.**

370 Lexington Avenue
Suite 902
New York, NY 10017

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**11/29/05 DOJ Review Version
Adopted by MRC Board of Directors
December 2008**

Voluntary Code of Conduct Media Rating Council, Inc.

Purpose

1. The Voluntary Code of Conduct (the "Code") of the Media Rating Council, Inc. ("MRC") consists of four sections—(1) Principles; (2) Interaction Guidelines; (3) Disciplinary Procedures; and (4) Other Matters. The Principles provide the framework for the Interaction Guidelines, which state the interaction requirements for both Measurement Services who voluntarily undergo audits by the MRC (the "Measurement Services") and MRC member-organizations and representatives who participate in the audit process, on audit committees, the MRC Board of Directors, the MRC Executive Committee and in other MRC functions and groups (the "Members" or "Member-Representatives"). The remaining two sections provide additional information on MRC administrative matters.

2. The MRC is authorized through its by-laws to promulgate internal operating procedures (e.g., voting policies, consultant policies), the Procedures for Accreditation, the Minimum Standards for Media Rating Research (the "MRC Minimum Standards") and the Code governing the interactions of the MRC staff, Members and Measurement Services. MRC internal operating procedures, the Procedures for Accreditation, the MRC Minimum Standards and the Code are subject to review and revision by the MRC Board of Directors to reflect advances in techniques of audience measurement or other necessary changes that the Board may determine.

3. The Code was adopted by the MRC Board of Directors on December 11, 2008 to provide guidance to all Participating Measurement Services and all Members, in the performance of their professional responsibilities related to MRC accreditation and the underlying audit process. The advertising buying and selling marketplace and other parties such as the media industry and the government rely on the MRC accreditation and audit process to help ensure quality and transparency in audience measurement.

4. Each of the Members and Measurement Services that voluntarily participate in MRC activities acknowledge that they have read and understand the Principles, Interaction Guidelines and other terms and conditions contained herein and that they agree to abide by the Code.

Definitions

Best Efforts: The standard of effort associated with complying with the Code should be interpreted as commercially-reasonable efforts, considering the significant reliance placed on the accreditation and audit process by multiple constituencies – herein stated as “Best Efforts.” Reasonable and customary audit fees generally do not constitute a compelling reason to not perform tasks outlined in the Code.

Commerce-Significant Measurement Products: Syndicated products that are used for planning, expenditure tracking, auditing, reporting, modeling, integrating, fusing or processing of audience estimates or advertising information by MRC Members that are material to the accuracy of these functions.

Conflict of Interest: A business relationship (other than subscriber status or routine contract negotiation processes) between a Participating Measurement Service and a Member, or other situation, which could impair the objectivity of a Member or Participating Measurement Service. Some examples of conflicts of interest include: cross or common-ownership of Members and Measurement Services; marketing relationships for media and/or measurement products between Members and Participating Measurement Services, ratings or contract disputes that are judged by the MRC staff to be outside of normal business practices (for example, access to data has been denied or payments for data have stopped) or the subject of a legal proceeding (for example, litigation or arbitration) or other conflict indicating a predisposition. Members and Participating Measurement Services with a potential conflict of interest, or that assert a potential conflict of interest on the part of others, related to an MRC-related activity should bring this conflict to the attention of the MRC staff with a recommended course of action specified.

Currency Audience Measurement Products: Syndicated audience measurement products that are widely used and form the basis for setting the financial value of advertising in a media-type or across media types. Development-stage products, because they are not yet widely used, are typically not considered Currency Audience Measurement Products, unless they will be used by an established Measurement Service to replace an existing Currency Audience Measurement Product it already produces that is widely used.

Custom: An audience measurement product, project, data reporting tool or application developed for the use of a single user, where that user can view unique audience estimates.

Disciplinary Action: Disciplinary action consists of suspension or revocation of MRC membership or voting privileges, revocation or other changes in a Participating Measurement Service’s participatory status in the MRC process, public disclosure of non-compliance with the Code (audit findings or audit-related confidential information is never subject to public disclosure) or referral to Government Agencies. Disciplinary actions are taken solely by the MRC Board of Directors.

Measurement Service: An organization that produces one or more syndicated audience measurement products, including “currency” audience measurement products, commerce-

significant products or other ancillary products. A “Participating Measurement Service” means a Measurement Service that has agreed to the voluntary MRC auditing and accreditation process for one or more of its products and is engaged in the MRC annual audit process. A “New-entrant Measurement Service” produces a syndicated audience measurement product and has not previously participated in the voluntary MRC auditing and accreditation process for any of its products. When a New-entrant Measurement Service enters the accreditation process, it is also considered a Participating Measurement Service. In the context of the Code, Third-Party Processors are considered Measurement Services.

MRC-Related Activities: All activities associated with the conduct of the MRC’s audit and accreditation function and MRC administrative matters.

Public Interest: In the context of the Code, acting in the public interest is focused on MRC-related activities. For Participating Measurement Services, serving the public interest includes maintaining compliance with MRC Minimum Standards and appropriate representation of material segments of the population intended to be measured (or otherwise disclosing and accounting for – for example in universe projections – non-represented segments to customers). For Members, serving the public interest includes using unbiased judgment in consideration of MRC Minimum Standards issues and representation-issues in applicable MRC-related activities.

Syndicated: Audience measurement products employing a consistent methodology, questionnaire or data collection tool resulting in audience and/or qualitative data that is reported and/or available (regardless of whether reporting is electronic or hard-copy) identically between users.

Third-Party Processors: Organizations that facilitate electronic access to Measurement Service data to customers of the Measurement Service. These organizations generally do not measure audience themselves; however, they may provide data-manipulation or modeling functions that can be applied to Measurement Service data. In the context of the Code, Third-Party Processors are considered Measurement Services. Despite the communication linkages that exist between Measurement Services and Third-Party Processors, the participation of Third-Party Processors in the auditing and accreditation process is generally not within the control of a Participating Measurement Service.

Section 1 – Principles

1. General

A.) Members – Membership in the MRC is voluntary. By accepting membership, an organization and its representatives assume an obligation of self-discipline, high ethical standards and confidentiality in all MRC-related matters.

B.) Measurement Services – Participation in the MRC accreditation and audit processes is voluntary. By accepting the industry self-regulatory processes of the MRC, a Participating Measurement Service assumes an obligation for openness, honesty and ethical standards,

compliance with MRC Minimum Standards, and fostering continuous product improvement in all MRC-related activities.

2. Responsibilities

A.) Members – In carrying out their responsibilities as media research professionals, Members shall exercise sound professional and ethical judgments in MRC-related activities.

B.) Measurement Services – In carrying out their responsibilities in syndicated media measurement subject to MRC accreditation and audit processes, Participating Measurement Services shall exercise sound professional and ethical judgments in their research and media-measurement activities.

3. Public Interest

A.) Members – Members undertake the obligation to act in a way that serves the public interest in their MRC-related activities.

B.) Measurement Services – Participating Measurement Services undertake the obligation to act in a way that serves the public interest in their MRC-related research and media-measurement activities.

4. Integrity and Objectivity

A.) Members – Recognizing that Members may have commercial interests in the outcome of accreditation proceedings, Members shall perform their MRC-related activities with integrity and they shall maintain objectivity and use best efforts to be free of conflicts of interest in discharging their professional research responsibilities. If a Member believes a conflict of interest may exist, that Member shall bring such potential conflict of interest to the attention of the MRC Executive Director. Judgments regarding member conflicts of interest will ultimately be made at the discretion of the MRC Executive Director through consultation with the MRC Executive Committee and, where necessary, the applicable Participating Measurement Service. Conflicts arising in this process will be resolved by the MRC Executive Committee.

B.) Measurement Services – Participating Measurement Services shall perform their MRC-related research and media measurement activities with integrity, objectivity and use best efforts to be free of conflicts of interest in discharging their professional responsibilities.

5. Professional Care

A.) Members – Members shall be familiar with the MRC Minimum Standards and the policies and procedures of the MRC and, when voting, with the applicable audit results, audit-related discussions and materials, and they should discharge their MRC related activities to the best of their professional ability.

B.) Measurement Services – Participating Measurement Services shall be familiar with the MRC Procedures for Accreditation, comply with the MRC Minimum Standards, maintain transparency with the MRC and their subscribers, cooperate with, and fund, the audit process and discharge their MRC-related research and media measurement activities to the best of their professional ability.

6. Equal Access and Competition

A.) Members – Any media organization that uses or relies on audience measurements, regardless of size, is eligible to become a member of the MRC. The MRC is intended to be an equal-access organization among the users of audience measurement data and the provisions of the Code are not intended to change this orientation. Further details on membership requirements, including the requirement to pay membership-dues and other membership conditions, are contained in the MRC By-Laws. Measurement Services, pure consulting organizations and multi-relationship consultants are precluded from membership in the MRC. More information on consultant interaction with MRC is contained in the MRC Consultant Policy.

B.) Measurement Services – It is the policy of the MRC to grant accreditation to any Participating Measurement Service which seeks accreditation, meets the accreditation requirements stated in the MRC Procedures for Accreditation and adheres to the terms of the Code. Neither the MRC Procedures for Accreditation nor the Code nor the MRC Minimum Standards shall preclude the offering of products by a Measurement Service that is not accredited, nor shall the Procedures for Accreditation, the Code nor the MRC Minimum Standards prevent any person, firm or corporation (whether or not a member of the MRC) from purchasing or using such information.

Participating Measurement Service products can be focused on national audience measurements, local audience measurements or have other quantitative or qualitative orientations. While auditing procedures, audit risks or other product assessments may [by necessity] be structured differently among these various product orientations, the MRC will strive to apply the auditing and accreditation *process* consistently across these orientations.

The MRC Minimum Standards are *minimum* standards and neither they nor the Code nor Procedures for Accreditation shall prevent any Measurement Service from following improved standards of higher quality.

Section 2 – Interaction Guidelines

1. MEMBERSHIP

Members agree to accept the following responsibilities related to the activities of the MRC:

A.) Membership Requirements

Members agree to insure that their directors, officers, employees and agents, will adhere to the terms of the MRC Non-Disclosure Agreement and the other requirements set forth in MRC By-Laws, this Code and MRC's other policies and procedures (i.e., voting policy, consultant policy and the MRC Procedures for Accreditation).

B.) Membership Rights

Subject to the terms and conditions of the MRC By-Laws, Members, upon payment of all required dues, shall have the right to appoint a representative to the MRC Board of Directors, carrying voting privileges as outlined in the MRC Voting Policy, for accreditation and policy decisions of such Board (the "Member-Representative").

C.) Loss of Membership

1. Any Member that, for a period of three (3) consecutive months, has failed to pay the dues incident to membership shall have its membership revoked; provided that membership may not be revoked, for good and sufficient cause, pursuant to conditions prescribed by the MRC Board of Directors at its sole discretion.
2. Any Member's membership may be suspended and/or revoked by the MRC Board of Directors for any act, which in the reasonable judgment of the Board constitutes a willful violation or breach of any of the provisions of the By-Laws, the Procedures for Accreditation, the Code, and other MRC Policies and Procedures by a majority vote of the entire membership of the Board and under such procedures as the Board may establish from time to time.

D.) Member Responsibilities

1. Member-Representatives shall have sufficient background and experience, to fulfill the responsibilities required in the accreditation process. The highest-ranking research professional of the Member is the recommended candidate to be the organization's Member-Representative.
2. Member-Representatives shall abide by the terms of the MRC Non-Disclosure Agreement, the MRC By-Laws and Procedures for Accreditation, this Code and MRC's other policies and procedures. Members and their Member-Representatives shall not divulge meeting results or any statements (oral, written or otherwise) made during the course of MRC meetings in any manner that is inconsistent with the MRC Non-Disclosure Agreement.
3. Member-Representatives shall follow the Principles Section of this Code in discharging their MRC-related professional responsibilities.

4. Member-Representatives shall vote on accreditation matters only when sufficiently prepared and informed of the audit and research issues associated with the applicable Measurement Service. For audit committee actions, sufficiently prepared and informed means at minimum that the Member-Representative has attended the audit meeting (in-person or via teleconference) and observed the presentation by the auditor, interactions of the audit committee and the MRC staff recommendation. Similarly, for follow-up actions of audit committees, Member-Representatives must attend the follow-up meeting and observe relevant background, presentations and discussions in the follow-up meeting. For Board or other ratification actions applicable to audit committee recommendations, sufficiently prepared and informed means at minimum that the Member-Representative understands the recommendation of the applicable audit committee. At each stage of deliberations, the MRC staff ensures relevant background facts are presented.
5. Member-Representatives will accurately represent the Accreditation status of Participating Measurement Services to others, within the scope of the MRC Non-Disclosure Agreement and the MRC Procedures for Accreditation.

2. MEASUREMENT SERVICES

The MRC and its Members believe: (1) MRC accreditation is essential to assuring transparency, quality and continuous improvement in syndicated media-measurement products; and (2) the MRC process should be applied to all “currency” audience measurement products and other commerce-significant measurement products of media-types. Measurement Services may approach the MRC directly to initiate participation in the accreditation process, and the MRC Board of Directors, Individual Board Members, or the MRC staff may approach Measurement Services based on their assessment of the currency-status or commerce-significance of the applicable product.

Participating Measurement Services agree to accept the following responsibilities related to their MRC-related research and media-measurement activities:

A.) Support of the Accreditation Process – Participating Measurement Services

1. MRC participation is voluntary; however, Participating Measurement Services shall use best efforts to obtain MRC accreditation of all “currency” audience measurement products. Additionally, Participating Measurement Services will give good faith consideration: (1) to the application of the MRC accreditation process to other commerce-significant measurement products, and (2) in consultation with the MRC, the identification of which reports and data-delivery tools produced by a Participating Measurement Service will be included in the accreditation process. The MRC expectation is that the Participating Measurement Service will apply Accreditation procedures to all widely-used reports (i.e., audience measurement deliverables used by numerous service-subscribers) and widely-used data-delivery tools of an audited product or service (excluding custom tools).

The audience measurements of many Participating Measurement Services are accessed and analyzed using data-delivery tools produced and maintained by third-parties. In these cases, accreditation of these products is strongly encouraged, but it is recognized that the participation of these third-party data-delivery tools in the voluntary MRC auditing and accreditation process is not in the control of the Participating Measurement Service. The MRC will seek the participation of widely-used data-delivery tools associated with audited currency audience measurement products in the MRC audit and accreditation process, whether or not these are produced by the Participating Measurement Service.

2. Participating Measurement Services shall use best efforts to maintain continuous accreditation of their participating products because of the reliance placed on the accreditation process by users.
3. The MRC prefers that a Participating Measurement Service seeking to replace an accredited currency measurement product with a new currency measurement product (both products provided by the same Participating Measurement Service) uses best efforts to obtain accreditation of the new product prior to its commercialization. At a minimum, disclosure of impact data as required by MRC Minimum Standards, completion of an MRC audit and MRC committee review prior to commercialization of a replacement currency product is required by the Code.

In these circumstances, strong consideration should be given to discontinuing the existing accredited currency product only when the replacement currency product has successfully achieved accreditation. This provision, however, does not limit the Participating Measurement Service from implementing and marketing the new currency product when it desires.

A Participating Measurement Service will submit the replacement-product to the MRC when it can reasonably be expected to achieve accreditation and provide in good faith a schedule that allows for completion of an audit and review prior to its commercial introduction. Both the auditor and the MRC agree in good faith that the audit and MRC committee review will be completed in sufficient time to permit the scheduled commercial introduction.

Participating Measurement Services can use the terms of "Hiatus" outlined in the Procedures for Accreditation or may withdraw an existing accredited product from the market without undergoing MRC committee review.

4. Participating Measurement Services shall accurately represent the status of accreditation to their customers. Content that references MRC or the status of accreditation should be submitted (when first used) to the MRC for review in advance. Changes or enhancements made to products as a result of the MRC process can be so referenced, if language is reviewed and approved by the MRC in advance.

B.) Support for the Accreditation Process – New-Entrant Measurement Services

1. Pre-audit assessments are available to New-entrant Measurement Services to help illuminate potential MRC Minimum Standards issues and therefore smooth the process of achieving MRC Standards-compliance as products are introduced. [Pre-audit assessments are also available to Participating Measurement Services for new products they may develop.]
2. New-entrant Measurement Services that develop and market intended “currency” audience measurement products should consider the guidance in the Code as soon as possible in the development process. These products should enter the accreditation process as soon as the definitional requirements (per the Code) for “currency” status are met, although applications for accreditation will be accepted earlier as requested by the New-Entrant Measurement Service. The application of the Code is intended to be the same for Participating and New-Entrant Measurement Services.
3. MRC participation is voluntary. MRC Accreditation is not a requirement to market or introduce a measurement product of any kind.

C.) Execution of the Audit

1. The Participating Measurement Service acknowledges that one of the goals of the MRC is to complete audits in a timely manner so that audit results are reviewed as closely as possible to the period audited. To that end, Participating Measurement Services shall, in a timely manner, make available to the MRC auditor documentation and information reasonably requested to complete an examination. In the event a Participating Measurement Service objects to sharing certain documentation, then the Participating Measurement Service shall, without delay, provide its reservations in writing to the MRC staff and auditors, so the parties can resolve the matter as expeditiously as possible. [In those cases, after review by the MRC staff and auditors, the proprietary information may be withheld from the Members, with solely a generalized description of the audit procedures and findings released in the audit report.]
2. The Participating Measurement Service acknowledges its responsibility to inform the MRC auditor of any MRC Minimum Standards compliance issues it has knowledge of.

D.) Reacting to Audit and MRC Audit Committee Findings

1. Participating Measurement Services shall use best efforts to maintain products that comply with the MRC Minimum Standards. When non-compliance situations are noted in an audit or by an MRC audit committee, the Measurement Service shall undertake its best efforts to resolve these situations. Timely resolution of non-compliance situations is essential.
2. In consultation with the MRC, Participating Measurement Service shall address other audit committee concerns and issues in a timely manner.

3. Participating Measurement Services have the right to disagree with audit committee interpretations and conclusions and must follow MRC procedures to communicate disagreements. As a course of last resort the MRC Procedures for Accreditation shall be used to resolve these disagreements.
4. Participating Measurement Services shall follow the Principles Section of this Code in discharging their MRC-related research and media-measurement responsibilities.

E.) Ongoing Methodological Research

The following provisions apply solely to methodological research conducted in response to audit findings or methodological research requested by the MRC to investigate potential product improvements or quality issues:

Consistent with MRC Minimum Standard A-1, which specifies that Participating Measurement Services should “try constantly to reduce the effects of bias, distortion and human error,” Participating Measurement Services commit to a program of ongoing methodological research to maintain product quality and foster continuous improvement. Ongoing methodological research is critical to a successful relationship between the MRC and Participating Measurement Services, and the following principles apply to the conduct and communication of such research:

1. The relationship between the MRC, Members and the Participating Measurement Service shall be characterized by honesty and full disclosure.
2. Because methodological research is critical to the MRC accreditation processes, in appropriate circumstances (e.g., consistent with protection of intellectual property), prior consultation between the Participating Measurement Service and the MRC on the design of methodological research is strongly encouraged. In the case of “live” testing, implementation drivers, goals and potential research outcomes should be discussed, and the key decision metrics should be clear and well defined in advance. Previous methodological research conducted by the Participating Measurement Service and others should be considered in structuring “live” testing and this testing should follow the “live testing” procedures described in the MRC Minimum Standards.
3. It is the obligation of the Participating Measurement Service to insure that communicated findings are a complete and accurate portrayal of the methodological research data and effective checks on the accuracy of findings are mandatory. Certain studies that directly relate to accreditation status may require auditing and validation by MRC auditors.

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4. Documentation and technical information necessary to assess the validity of any published finding shall be maintained by the Participating Measurement Service and made available for inspection by the MRC.

5. Participating Measurement Services shall clearly delineate the technical findings of methodological research from *interpretation* and *recommendations* based on technical findings.
6. In presenting the results of a methodological research project, Participating Measurement Services shall refrain from referring to MRC involvement in project discussions as proof of competence or with any implication that the MRC endorses project conclusions.
7. Participating Measurement Services shall act on methodological research findings in good faith.

Section 3 – Disciplinary Procedures

1. **Members** – Any Member or Member representative found to have violated the terms of this Code are subject to disciplinary action, as determined by the MRC Board of Directors using such procedures, as the Board shall establish.

2. **Measurement Services** – Participating Measurement Services found by the MRC Board of Directors to have willfully or repeatedly violated the terms of this Code are subject to disciplinary action as determined by the MRC Board of Directors using such procedures as the Board shall establish.

Process Specifics:

A.) **Procedure**: The procedures established by the MRC Board of Directors concerning disciplinary action will ensure that Members, Member-Representatives and Participating Measurement Services believed to have violated the Code will be afforded appropriate due-process including hearing procedures, if requested.

B.) **Scope of Sanctions**: Upon a finding that a Member, Member-Representative or Participating Measurement Service has violated this Code, the violator shall be subject to:

1. Member or Member-Representative: (1) suspension of membership or voting privileges, (2) revocation of membership or voting privileges, or (3) other Disciplinary Action that the Board deems appropriate.

2. Participating Measurement Service: (1) suspension from participation in the MRC process, (2) publication of non-compliance with the Code, or (3) other Disciplinary Action that the Board deems appropriate.

C.) **Disputes**: Two types of disputes are recognized by MRC: (1) disputes arising from the ongoing accreditation process (accreditation decisions) – these are generally between the MRC Board of Directors and Participating Measurement Services, and (2) violations of the provisions of the Code – these arise from actions of Members, Member-Representatives or

Participating Measurement Services, and can be asserted by any Member, Member-Representative or Participating Measurement Service.

1. Accreditation-Related Disputes: The procedure for addressing disputes related to the suspension, revocation or denial of accreditation is described in the MRC Procedures for Accreditation. Ultimately disputes related to these circumstances are resolved through hearing procedures described in the Procedures for Accreditation, *Article VI – Hearing*. These procedures are not modified by the Code.

2. Violations of Provisions of the Code: Violations of the Code can be asserted by the MRC Staff, any Member, Member-Representative or Participating Measurement Service.

Any Member, Member-Representative or Participating Measurement Service alleging violations of this Code shall submit its allegations to the Disciplinary Committee (“Committee”), a Committee comprised of five member-representatives selected by the MRC Board of Directors. In the event that a member of the Committee must recuse themselves from the matter, remaining members of the Committee shall hear the matter. Within 10 days of receipt of the written allegations, the Committee shall notify in writing, the party against whom the allegations (alleged violator) have been made of the substance of the allegations. The alleged violator, within 30 days of receipt of the allegations, shall submit to the Committee a written response to the allegations. The Committee shall then conduct a full and impartial hearing as soon as practicable to all parties concerned. The Committee shall provide at least 30 days notice to the parties as to the date and time of the hearing. The parties may be represented by counsel at the hearing, present witnesses and documentary evidence at the hearing. There will be a stenographic recording of the hearing. The party making the allegation shall go first, followed by the alleged violator. The Committee, in its discretion may permit rebuttal by the party making the allegation. The parties agree to fully cooperate with the Committee, including complying with any request for information relevant to the investigation. The Committee decision shall be based on a “preponderance of evidence” standard, with the burden of proof of establishing a violation of the Code resting on the party bringing the allegation. The hearing shall be open to Members and Participating Measurement Services. The Committee, upon reaching its conclusion, shall prepare a written statement of findings, copies of which shall be provided to the parties involved and the Executive Director (or the MRC Board Chairman, if the MRC Executive Director is the alleged violator).

Within 45 days of receipt of the Committee’s statement of findings, either of the parties involved may request oral argument before the entire MRC Board of Directors (“Board”) at a time and place reasonably convenient to the Board. Failure to request a hearing within the proscribed time period shall be deemed a waiver of the right to Board review. The parties shall be permitted to make a written submission to the Board of Directors. The submission shall contain the following: (1) a statement of the issues presented for review; (2) a statement of facts relevant to the issues presented for review; (3) an argument; (4) a short conclusion. The hearing can be conducted either in person or telephonically. There shall be a stenographic recording of the hearing. The Board shall base its decision upon the transcript of the Committee hearing, the Committee’s

statement of findings, the parties' written submission to the Board and the oral argument. The Board has the authority to reverse, affirm the Committee's decision and the authority to modify any sanction imposed by the Committee. However, any such determination shall be made only if at least two-thirds of the Board members present in the meeting concur (there must be a quorum of at minimum two-thirds of Board members present in the meeting for purposes of this proceeding).

Members, Member-representatives and/or Participating Measurement Services that disagree with a determination of the Committee, or as applicable the MRC Board of Directors, regarding disciplinary action shall use their best efforts to settle such disagreement.

If the parties are unable to resolve their dispute within 60 business days from the Committee decision or Board hearing, then the issue shall be settled by arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules and the judgment of the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. In such an arbitration proceeding each party shall appoint an arbitrator selected from an approved list provided by the AAA, within 15 days of the referral. The two arbitrators shall mutually appoint a third arbitrator selected from the same approved list within 10 days of their appointment. If either party fails or refuses to appoint an arbitrator, the arbitrator appointed by the other party shall be the sole arbitrator. If the two arbitrators are unable to agree on the appointment of a third arbitrator within 10 days, the AAA shall appoint the third arbitrator selected from the list. The decision of a majority of the members of the arbitration panel (or a single arbitrator, as the case may be due to a default in appointment) shall be final binding and subject to the provisions of the United States Arbitration Act (Title 9, United States Code Sections 1-14; 16; 201-208).

The arbitrators' decision shall be in writing and shall provide a reasoned basis for the resolution of each dispute. Remedies available to the arbitrator in this proceeding will be limited to Disciplinary Action as herein defined. The substantive and procedural law of the State of New York shall apply to any such arbitration proceedings. The place of any such arbitration shall be New York City. Enforcement of the decision may be sought in any court of competent jurisdiction. Each party shall bear its own fees and expenses with respect to the arbitration and any proceedings related thereto and the parties shall share equally the fees and expenses of the AAA and the arbitrators.

D.) Referral to Government Agencies: Consistent with its mandate, the MRC Board of Directors reserves the right, in instances of egregious, repeated or willful violations of the Code, to refer such violations to the appropriate Federal agency.

Section 4 – Other Matters

1. The MRC staff, MRC-engaged consultants and CPA firms who interact with the accreditation process on behalf of the MRC agree to follow the Code insofar as applicable.

2. MRC accreditation voting is complex and based on several sources of information – for example, the Audit Report, Members’ professional judgment, various relevant and material performance metrics of the Participating Measurement Service and the intended use of the Participating Measurement Service’s data in the marketplace (the intended use of the Participating Measurement Service’s data will be stated by the Participating Measurement Service upon application for accreditation and should be consistent with the Service’s marketing material). The combination of these sources of information creates very unique circumstances for each accreditation proceeding. While no single accreditation vote should be interpreted as precedent setting, especially between different services, the MRC will strive to assure that accreditation determinations will be made in a fair and consistent manner, considering the above sources of information.

3. The MRC Staff will provide Members and Participating Measurement Services with copies of the MRC By-Laws, Procedures for Accreditation, MRC Minimum Standards and the Code upon request.

4. The MRC, acting through its staff, will notify Participating Measurement Services in writing of any contemplated changes in MRC Minimum Standards, Procedures for Accreditation and this Code and will afford Participating Measurement Services an opportunity to consult with respect to such changes. The MRC agrees that such changes will be objectively derived and provided, in writing, to Participating Measurement Services in sufficient time to permit Participating Measurement Services to incorporate changes to affected services prior to the effective date of such changes.

5. The MRC will promptly and accurately communicate in writing to Members and Participating Measurement Services each grant, withdrawal or change with respect to accreditation.

EXHIBIT C



Department of Justice

FOR IMMEDIATE RELEASE AT FRIDAY, APRIL 11, 2008 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

**DEPARTMENT OF JUSTICE WILL NOT CHALLENGE MEDIA INDUSTRY
ASSOCIATION'S PROPOSAL REGARDING AUDIT PROVISION FOR AUDIENCE
MEASUREMENT TOOLS**

WASHINGTON – The Department of Justice announced today it will not challenge a proposal by the Media Ratings Council (MRC) relating to the auditing and accrediting of products that measure the size and demographics of an audience. The Department said that the proposed change is not likely to harm competition, and that a voluntary, precommercialization audit and accreditation of audience measurement products (AMPs) has the potential to benefit users by providing assurances that the products are valid, reliable and effective. MRC's proposal affects only those AMPs, known as Currency AMPs, that are widely used and relied upon to determine the financial value of advertising.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division, to counsel for MRC. MRC is a non-profit industry association with a diverse membership consisting of buyers and sellers of advertising, including television and radio broadcasters, cable-casters, print organizations, Internet organizations, advertising agencies and industry trade associations. As users of AMPs, MRC's members have a common interest in the accuracy and reliability of these products. MRC has evaluated and accredited AMPs since 1964, using independent auditors to assess products' methodology and the data supporting the methodology (impact data).

MRC requested a business review letter from the Antitrust Division expressing its enforcement intentions with respect to a proposed change to its current audit and accreditation process. MRC seeks to make explicit its preference that rating services seeking to replace one of their Currency AMPs obtain accreditation of the new product, and at a minimum submit impact data and undergo an independent audit, prior to commercialization. MRC proposes to include this kind of language in its draft Voluntary Code of Conduct, which outlines its practices and procedures used since 1964 for auditing and accrediting AMPs. MRC represented to the Department that a rating service's participation in MRC's audit and accreditation process, today and as modified by its proposal, is voluntary and may be undertaken by a rating service at any time.

"Auditing and accrediting activities by associations of customers do not necessarily raise antitrust issues," Barnett said in the letter. "In fact, with appropriate safeguards, auditing and accrediting activities can provide valuable, unbiased information to the marketplace."

The Department stated that in this instance such activities can reduce the confusion and uncertainty among buyers and sellers of advertising that can occur when a Currency AMP is replaced by an unknown and untested one.

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, Suite 215, Liberty Place, 325 7th Street NW, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established under the Business Review Procedure.

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08-290

EXHIBIT D

**Minimum
Standards
For
Media
Rating Research**

Media Rating Council, Inc.

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Introduction

The Media Rating Council, Inc. (MRC) believes that adherence to the following minimum standards is necessary to meet the basic objectives of valid, reliable and effective media audience measurement research. Acceptance of MRC minimum standards by a rating service is one of the conditions of accreditation by the MRC, Inc. These are intended to be minimum standards and neither they, nor anything in MRC Procedures, shall prevent any rating service from following higher standards in its operations.

The minimum standards listed herein are divided into three groups:

A. Ethical and Operational Standards

These standards govern the quality and integrity of the entire process by which ratings are produced.

B. Disclosure Standards

These standards specify the detailed information about a rating service, which must be made available to users, to the MRC, Inc., and its audit agent, as well as the form in which the information should be made available.

C. Electronic Delivery and Third-Party Processor Supplementary Standards

These standards reflect additional requirements for rating services that deliver audience data electronically and for third-party processors that apply for accreditation.

A. Ethical and Operational Standards

1. Each rating service shall try constantly to reduce the effects of bias, distortion and human error in all phases of its activities.
2. Appropriate quality control procedures shall be maintained with respect to all external and internal operations which may reasonably be assumed to exert significant effects on the final results.

Quality control shall be applied to, but not necessarily limited to, sample selection, sample implementation, data collection, data editing, data input, tabulation and data delivery in printed and electronic formats. It shall include (where relevant) periodic independent internal verification of fieldwork and periodic accuracy checks of meter performance and computer accumulations of base data.

3. The sample design for audience surveys (sample frame and sampling plan) must, to a reasonable degree, accurately reflect the statistical population targeted for measurement. In each rating report, the statistical (target) populations to which measurements are projected must be clearly defined. In instances where the sample frame may exclude part of the "target" population, such deviations shall be described clearly.
4. All field personnel (including supervisors) shall be furnished with detailed written instructions and manuals covering all steps of their work. Such personnel shall be thoroughly trained to assure that:
 - a. They know the responsibilities of their positions.
 - b. They understand all instructions governing their work.
 - c. They will deviate from such instructions only when justified by unusual conditions and that any such deviations will be reported in writing.
 - d. They recognize and will avoid any act which might tend to condition, misrepresent or bias the information obtained from respondents.
5. To improve quality of performance, interviewers and other personnel shall be informed that their work will be periodically checked by internal quality control procedures and by MRC auditors. Every effort shall be made to avoid divulgence to such persons of the checking procedures and the personnel, times and places selected for checking.
6. Detailed written instructions shall be maintained to insure uniform procedures in editing operations. Any editing changes in diaries or questionnaires (additions, deletions or changes) shall be made in an easily identifiable manner so that such editing changes can be checked or audited. Any routines for editing by computer shall be clearly documented.

7. Each rating service utilizing computer systems for processing audience data shall establish procedures to insure that:
 - a. The operations to be performed by the computer system are documented in sufficient detail to specify for each computer program at least: the objective of the program; the input data to be used; the editing and processing steps to be performed, and the output data.
 - b. The computer programs and data are diligently protected from unauthorized manipulation.
 - c. Changes in any computer program are documented in enough detail to identify what is being changed, the reason for the changes, tests performed to confirm the effect(s) of the changes, and the effective date of the changes.
8. The anonymity of all personnel in any way concerned with sample respondents or households shall be preserved.
9. If respondents have been led to believe, directly or indirectly, that they are participating in an audience measurement survey and that their anonymity will be protected, their names, addresses and other such identifying information shall not be made known to anyone outside the rating service organization, except that such information may be provided to:
 - a. The audit firm of the MRC in the performance of an audit.
 - b. The MRC when such disclosure is required in a hearing before the MRC.
 - c. Another legitimate market research organization, for methodological purposes only, at the discretion of the rating service.
10. Experiments in methodology shall not be conducted in conjunction with regular syndicated surveys unless previous independent tests have indicated that the possible effect on the audience data reported will be minimal and unless full disclosure is made as provided in B2 below.
11. Rating services shall take adequate steps to avoid including in audience measurement samples any station, channel, system or network (television, radio, cable or satellite) principal or employee or any member of their households because of the possibility of conscious or unconscious bias in the reporting of their media behavior.
12. In the event that a rating service has identified an attempt to bias measurement results by a respondent's submission of fabricated information, it will do whatever may be necessary to identify and eliminate such cases. In the event that such cases have been included in published data, the service will attempt to assess the effect on results and will notify users should this prove to be of practical significance.
13. All weighting or data adjustment procedures utilized by a rating service in the process of converting basic raw data to rating reports shall be based on systematic, logical procedures, consistently applied by the rating service and defensible by empirical analysis.

B. Disclosure Standards

General

A concise description of the survey methodology shall be included in each rating report. This description shall include, but is not to be limited to, a description of the survey technique used, a delineation of the area or areas for which ratings were reported, the sampling procedures used, periods during which the audience data were obtained, criteria for reporting stations, a statement as to whether weighting and/or adjustment factors have been used, and a statement as to whether special interviewing and/or retrieval techniques have been used. Additional details regarding procedures used in sampling (including the selection of samples, callback procedures, substitution procedures), weighting area determination, etc., shall be provided to subscribers in methodological supplements which shall be updated periodically (at a minimum, annually) to reflect current policy and practice.

Specific

1. Each report shall include statements calling attention to all omissions, errors and biases known to the rating service which may exert a significant effect on the findings shown in the report.
2. Each rating report shall point out changes in, or deviations from, the standard operating procedures of the rating service which may exert a significant effect on the reported results. This notification shall indicate the estimated magnitude of the effect. The notice shall go to subscribers in advance as well as being prominently displayed in the report itself.
3. Each rating report shall show the number of different households (or individual or other sample units) initially selected and designated to provide audience information and the number among these that provided usable rating data utilized for that specific rating report. If any of the usable interviews or responses have not been included in the final rating report, that fact and a description of the procedure by which the responses used were selected shall be included in the report.
4. Each rating report shall indicate the sample base for the reporting of any separate audience data (households or persons, geographic breakdowns such as Metro and Total Area and demographic tabulations based on age, sex, ethnic origin, etc.). This information is to be provided on a basis of in-tab and, where appropriate, effective sample sizes.
5. Geographic areas surveyed shall be clearly defined in each rating report and the criteria and/or source used in the selection of the survey areas shall be given. (Thus, if the area surveyed is the Metro area as defined by the U.S. Census, the report should so state.)
6. The rating service shall show in a prominent place in each report a comparison of the geographic distribution of sample data with universe data as obtained from primary sources. In the case of individual local reports, the data shall be shown in each report according to counties or reasonable county groupings. In the case of services using continuing samples, the above information shall be published in each report but need be updated only semi-annually.

7. Each rating report shall state that the audience data obtained from the samples used in audience measurement surveys are subject to both sampling and non-sampling errors and shall point out the major non-sampling errors which are believed to affect the audience estimates.
8. With respect to sampling error:
 - a. Each rating report shall contain standard error data relevant to the audience estimates contained therein. Such data shall be presented whether or not effective sample sizes are shown.
 - b. The report shall also contain a non-technical explanation of the meaning and use of standard error as well as a clear guide to how the data may be applied to any given estimate contained in the report.
 - c. The method used to develop standard error estimates as well as the formulas used to compute the standard errors shall be fully disclosed. The service shall provide a basis for calculating sample errors for other audience estimates commonly calculated from data published in its reports, although this material may be included in a methodological supplement rather than the report itself.
 - d. In order for the MRC to verify the accuracy of the standard error and effective sample size approximations contained in a rating report, rating services will be requested periodically to provide a sample of standard errors and effective sample sizes calculated by appropriate standard error formulas. The MRC may use this information as a comparison with results obtained by applying the approximation formulas given in ratings reports.
9. All weighting or data adjustment procedures utilized by a rating service in the process of converting basic raw data to rating reports shall be clearly stated and quantified. This detailed information should be available in each report or reporting system. Appropriate reference material shall also describe procedures and the reasons for such adjustments or weighting.
10. If a rating service establishes minimum requirements for the issuance of a rating report or for reporting stations, or demographic or geographic breaks, the service shall indicate the minimum number of sample returns required for each category.
11. If the rating service becomes aware that a station, channel, system, or network has employed special non-regular promotional techniques that may distort or "hype" ratings and/or exhortation to the public to cooperate in ratings surveys, the rating service shall publish a description of this effort in the appropriate report.
12. If a rating service has knowledge of apparent rating distorting influences such as community power outages, catastrophes or transmission failures, the rating service shall indicate in its reports that such conditions existed during the survey period.

13. With respect to accreditable but presently non-accredited surveys conducted by a company which produces a rating service(s) accredited by MRC:
- a. Efforts must be taken by the company to disclose fully that these other services are, in fact, not accredited by the Council. To avoid subscriber confusion, the minimum requirement is: (1) the report covers for non-accredited services be distinctively different from those used on accredited service(s), and (2) each non-accredited report must carry prominently (on the outside front cover, inside front cover or the opposite page) the following statement:
 - (a) "This service is not part of a regular syndicated rating service accredited by the MRC and _____ has not requested accreditation. _____ does provide one or more syndicated services which are accredited by the MRC."

Alternative wording may be used if approved in advance by the MRC.
 - b. Surveys executed by a rating service for a specific client or clients shall clearly show that the report is of a special nature and not part of a regular accredited syndicated rating service. Such report shall show the name of the client or clients and shall be (1) easily distinguishable from accredited rating reports by use of distinctive report covers, and (2) notice to this effect must be on the outside front cover, inside front cover or the opposite page.
 - c. The MRC accreditation symbol will not be used on any reports which are not an integral part of a service accredited by and subject to audit by the MRC.
14. The rating service shall permit such CPA firm(s) designated by the MRC for the purpose of auditing to review and/or audit any or all procedures or operations that bear upon the development and reporting of audience estimates.
15. Although the anonymity of all personnel concerned with sample respondents or households shall be preserved (as required by A.8), the MRC audit firm will have the right to check with such personnel and any other appropriate persons as part of the auditing process. (The audit firm will in its audit reports maintain the anonymity of such personnel.)
16. Interviewer and supervisor records shall be maintained at least eleven months by the rating service to show: name; date of work; time; type of work; location of work; manner of payment (e.g., full-time staff, part-time staff, hourly, per interview, conditions [if any] under which bonuses are paid, etc.).

17. Each rating service shall maintain, for at least eleven months from the end of the period covered by the report, all diaries and interviews (or a complete facsimile thereof), tape records and/or other primary sources of audience data. These shall include material actually used in the preparation of published rating reports as well as material collected but not used. In addition, each service shall maintain records of:
 - a. All attempts to place diaries or meters, or to obtain interviews or whatever other form of cooperation is required for the research technique used.
 - b. All unsuccessful attempts to obtain information, including- but not limited to - refusals, not at home, cases requiring further discussion and/or correspondence (e.g., with another member of the household), busy signals (phone), and returns from postal authorities.
 - c. Actual or assumed reasons for non-cooperation.
 - d. Which cooperating sample members are original sample selections, and which are first, second, third, etc., substitutions.
18. Returned diaries or questionnaires not put into tabulation for any reason (incomplete, late, poor quality, wrong area, etc.) shall be marked to indicate the reason for rejection and filed as provided under B.17.
19. Each service shall keep documentation of errors of any type in published figures for a period of two years.

Included in such documentation shall be: the length of time the error affected published figures; the effect of the error in absolute and relative terms; its cause; the corrective action taken; and the disclosures, if any, made to subscribers (copies of notices, etc.). If no disclosure was made, the record should indicate the reason underlying this decision.
20. Rating service edit manuals will be made available to subscribers at service headquarters where raw data is made available for inspection.

C. Electronic Delivery and Third Party Processor Supplementary Standards

General

In addition to groups A and B above, rating services that deliver audience data electronically and third party processors of accredited rating service data are required to adhere to the following minimum standards. In these cases, many of the disclosures required by the minimum standards can be made within the electronic delivery system.

In this context a "System" refers to the electronic delivery system or the software used by a third party processor to manipulate an accredited rating service's data. A "Third Party Processor" is an organization that reprocesses audience data from a primary supplier to provide alternative report formats, applications, etc.

Specific

1. The System must have reasonable controls to prevent:
 - a. Users from accessing respondent identifying information.
 - b. Users from altering raw data, such as listening, viewing, readership, product usage or qualitative estimates. Raw data also includes weighting and sample balancing results.
 - c. Users from altering System software.
 - d. Report headings selected by users from being misleading. This includes the use of footnotes and "flags" where necessary to clarify limitations of the data presented,
2. Users of the System should be alerted, and reports from the System must delineate:
 - a. Audience estimates produced by the System having suspect reliability, such as in cases of less than minimum reportability. Minimum requirements for reporting and reliability can change due to the customizable nature of System analyses; in these instances the System shall indicate the minimum number of sample returns required for each analyses.
 - b. Audience estimates originating from statistical models rather than directly from reported audience data with documentation made available to auditors on request.
 - c. Data from non-accredited sources. System reports should clearly disclose these situations using language similar to that in B.13 above.
 - d. Situations of data reissuance due to errors.

3. The rating service or third party processors must have reasonable controls to ensure:
 - a. Users have received the current version of the System.
 - b. Users are notified timely of errors noted in the System and/or data, and where necessary, that corrected software and/or data are distributed timely.
4. Exportation of data from the System generally takes manipulation of the data outside of the control of the rating service or third party processor, therefore this activity will not be accredited. Reasonable efforts must be made to identify and distinguish standard reports of the System from reports based on exported data.
5. The rating service or third party processor is encouraged to supply detailed written instructions, user manuals or on-line help facilities to assist users in properly executing System functions.

Additional Recommended Standards

In addition to adherence to the Minimum Standards, the MRC requests that accredited rating services, insofar as possible, observe the "Recommended Standards for the Preparation of Statistical Reports in Broadcast Audience Measurement Research" and "Standard Definitions of Broadcast Research Terms", both published by the National Association of Broadcasters, but also endorsed by the Media Rating Council and the Advertising Research Foundation.

For MRC Minimum Standards for A.10 and B.2

In an effort to assist research companies in their adherence to MRC Minimum Standards A10 and B2, the MRC suggests the following:

- I. Each research company is encouraged to provide the MRC a "Journal of Changes" on a quarterly basis. This Journal would include any and all changes in methodology and procedures that the research company is planning to test and/or implement in the next quarter or, if known, beyond. Submission itself, does not imply any waiver of A10/B2.

and/or

- II. Each research company is encouraged to avail themselves of the following voluntary "Live Test Procedures":

Live Test Procedures

1. Before implementing a Live Test of any of the methods and procedures used to collect audience data, the research company agrees to review such proposed tests with the MRC Staff and two Ad-Hoc MRC Board members (Hereafter referred to as the MRC Group), detailing the objectives of the test and the contemplated procedures. Results of prior tests supporting minimal effects, if available, should also be offered.
2. If the evidence suggests to the MRC Group that the possible effect on Audience Data will be minimal, then the research company will be advised that implementation of the test will not be considered a violation of Minimum Standard A.10.
3. Should the MRC Group or the research company feel the need for outside technical counsel, this would first be jointly discussed and outside technical counsel will be jointly agreed on.
4. Should the research company request it, the MRC Group would agree not to reveal the specific nature of these tests other than to the independent auditor working with the research company on behalf of the MRC and, if required, outside technical counsel.
5. The research company would disclose to all subscribers that a test was conducted and reach agreement with the MRC Staff and the MRC Group as to the statement(s) to be made. Disclosure, per Minimum Standard B.2, will go to subscribers in advance as well as being prominently displayed in the report itself should the staff and group feel required.
6. It is also understood that, ultimately, the decision to conduct a live test rests with the research company. The procedure described above is intended to assist the research company in working within the framework of MRC Standards A.10 and B.2.

MRC Executive Directors

Dr. Kenneth Baker	(1964 – 1970)
Hugh “Mal” Beville, Jr.	(1971 – 1981)
John Dimling	(1982 – 1985)
Melvin Goldberg	(1986 – 1992)
Richard Weinstein	(1993 – 1999)
George W. Ivie	(2000 – Present)

Media Rating Council, Inc.

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Revised December, 1999

EXHIBIT E



**Media Rating
Council, Inc.**

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www.mediaratingcouncil.org

**MRC Status Update
Arbitron PPM Services
December 2, 2009**

Houston

- First PPM Service Submitted for Accreditation
- Ethnically Diverse Market
 - Hispanic Population
- Pre-audit Assessment Initiated 2004
- Audit Conducted 2005-2006
 - Separate Audit of Meter Technology
- Address Based Sampling (Unique to Houston PPM)
- Accreditation Granted January 2007
 - Eleven Months after Audit Review
 - Commercialized June 2007 After Achieving Accreditation
- Arbitron Took Extensive Actions Designed to Cure Issues
 - Additional Actions Required
- Three Subsequent Audits Conducted
 - September 2009 Most Recent Review
- Last Diary Service Report Winter 2007
- Houston PPM Television Data is Not Accredited
 - Arbitron is Not Currently Seeking Accreditation

Philadelphia

- Racially Diverse Market
 - Black Population
- Telephone Based Sampling
- First Audit Conducted 2006-2007
- Audit Review April 2007
- Accreditation Denied
 - New Audit Required
- Commercialized March 2007
- Review of Second Audit June 2008
 - Accreditation Status Unchanged
 - Last Closed Status of Deny Continued
- Extensive Action by Arbitron Designed to Cure Issues
- Review of Third Audit March 2009
 - Service Remains In-Process
 - Last Closed Status of Deny Continues
- Last Diary Service Report Fall 2006
 - Discontinued Prior to Accreditation of PPM Replacement Product

New York PPM (Including Embedded Metros: Nassau-Suffolk, Middlesex-Somerset-Union)

- Difficult Market to Measure; Particularly in Obtaining Cooperation of Households
- Highly Diverse Market
 - Race & Ethnic Measurement is Very Material
- Telephone Based Sampling
- Audit Conducted 2007
- Audit Review November 2007
- Accreditation Denied
 - New Audit Required
- Second Audit Completed July 2008
 - Accreditation Status Unchanged
 - Last Closed Status of Deny Continued
- Commercialized September 2008
- Extensive Action by Arbitron Designed to Cure Issues
- Third Audit Completed March 2009
 - Service Remains In-Process
 - Last Closed Status of Deny Continues
- Last Diary Service Report Spring 2008
 - Discontinued Prior to Accreditation of PPM Replacement Product

Riverside - San Bernardino

- Commercialized September 2008
- Telephone Based Sampling
- Audit Review Conducted August 2008
 - Accreditation Granted
- Second Audit Conducted June 2009
 - Accreditation Continued
- Last Diary Service Report Spring 2008

Los Angeles

- Commercialized September 2008
- Telephone Based Sampling
- First Audit Review Conducted August 2008
 - Second Audit Review Conducted June 2009
 - Service Remains In-Process
- Last Diary Service Report Spring 2008
 - Discontinued Prior to Accreditation of PPM Replacement Product

Chicago

- Commercialized September 2008
- Telephone Based Sampling
- First Audit Review Conducted August 2008
 - Second Audit Review Conducted September 2009
 - Service Remains In-Process
- Last Diary Service Report Spring 2008
 - Discontinued Prior to Accreditation of PPM Replacement Product

San Francisco, San Jose

- Commercialized September 2008
- Telephone Based Sampling
- Audit Review Conducted August 2008
 - Services Remain In-Process
- Last Diary Service Report Spring 2008
 - Discontinued Prior to Accreditation of PPM Replacement Product

Dallas-Ft. Worth, Washington D.C.

- Commercialized December 2008
- Telephone Based Sampling
- First Audit Review Conducted December 2008
 - Second Audit Review Conducted September 2009
 - Services Remain In-Process
- Last Diary Service Report Summer 2008
 - Discontinued Prior to Accreditation of PPM Replacement Product

Atlanta, Detroit

- Commercialized December 2008
- Telephone Based Sampling
- First Audit Review Conducted December 2008
 - Second Audit Conducted June 2009
 - Services Remain In-Process
- Last Diary Service Report Summer 2008
 - Discontinued Prior to Accreditation of PPM Replacement Product

Boston

- Commercialized March 2009
- Telephone Based Sampling
- Audit Review Conducted March 2009
 - Service Remains In-Process
- Last Diary Service Report Fall 2008
 - Discontinued Prior to Accreditation of PPM Replacement Product

Miami, Seattle, Phoenix, Minneapolis-St. Paul, San Diego

- Commercialized June 2009
- Audit Review Conducted June 2009
 - Services Remain In-Process
- Last Diary Reports Scheduled Winter 2009
 - Discontinued Prior to Accreditation of PPM Replacement Product

Tampa-St. Petersburg, St. Louis, Denver-Boulder, Baltimore, Pittsburgh

- Commercialized September 2009
- Audit Review Conducted September 2009
 - Services Remain In-Process
- Last Diary Reports Spring 2009
 - Discontinued Prior to Accreditation of PPM Replacement Product

Portland OR, Sacramento, Cincinnati, Cleveland, Salt Lake City-Provo, San Antonio, Kansas, Las Vegas

- Scheduled for Commercialization December 2009
- Last Diary Reports Scheduled Summer 2009
- Audits Are Underway
 - Review Scheduled for December 2009

16 Markets Scheduled for PPM Commercialization in 2010

EXHIBIT F

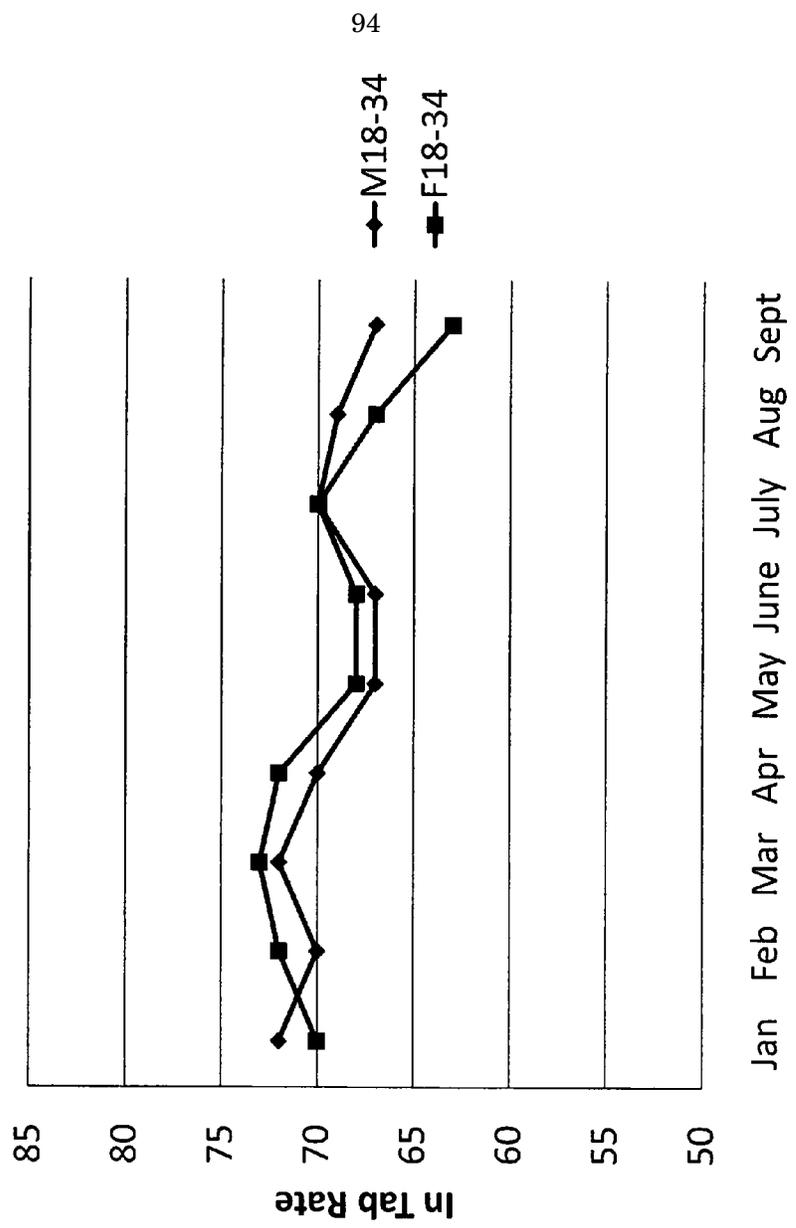
Review of PPM Market-Level Trends, January – September 2009: 18-34 Intab Rates, Sample Performance Indicators (SPI)

93

All Unaccredited PPM Markets*
Commercialized as of March 2009

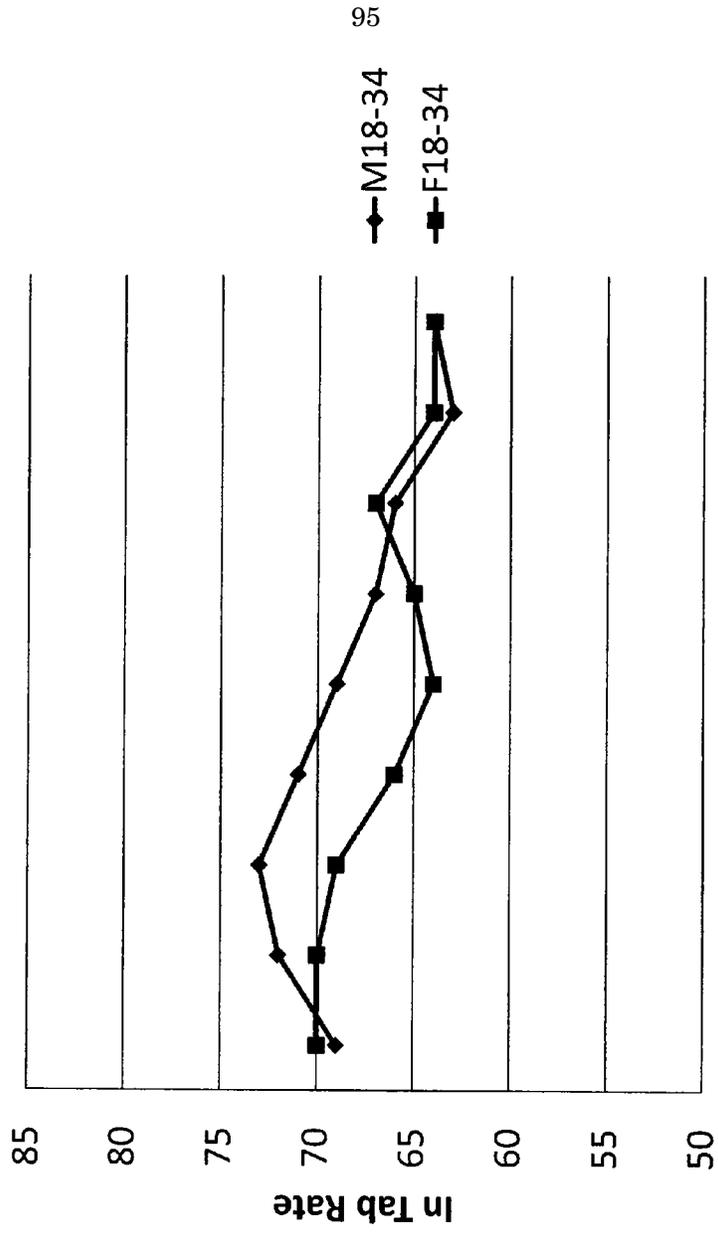
* Houston and Riverside markets are currently accredited and are not included.

Atlanta 18-34 Intab Rates, Jan-Sept '09



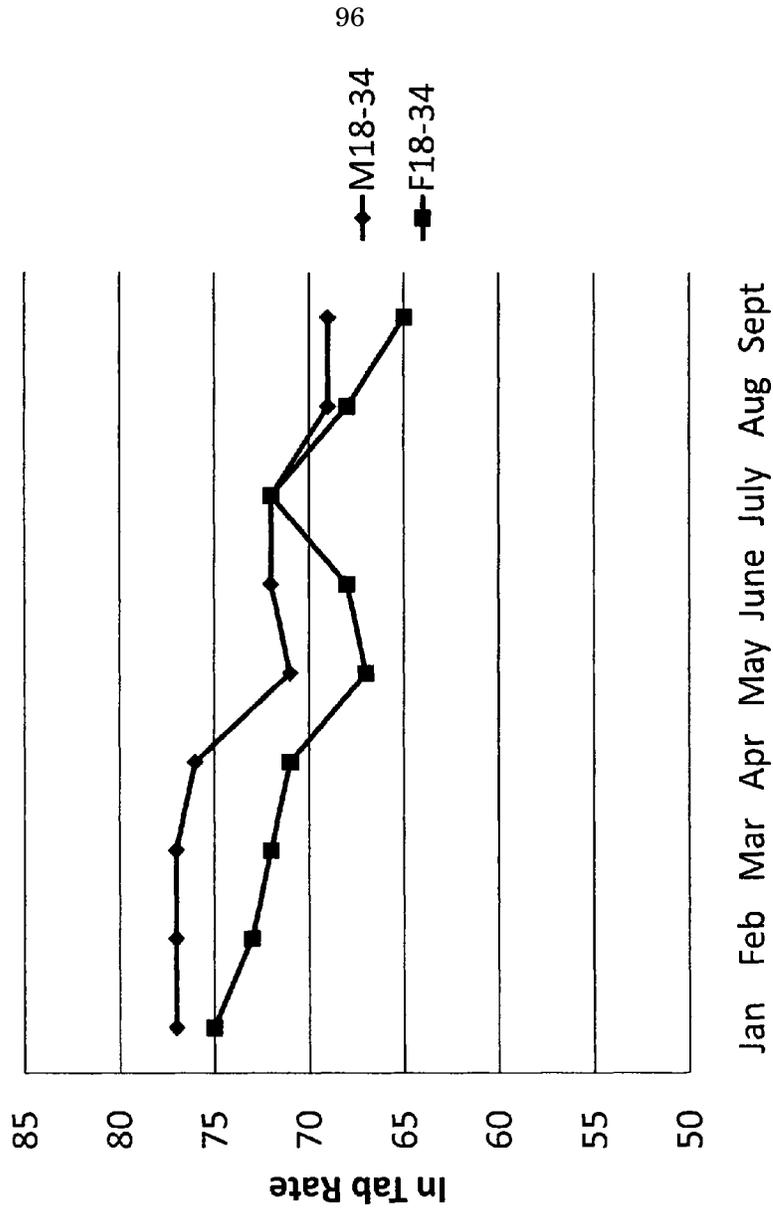
94

Boston 18-34 Intab Rates, Jan-Sept '09

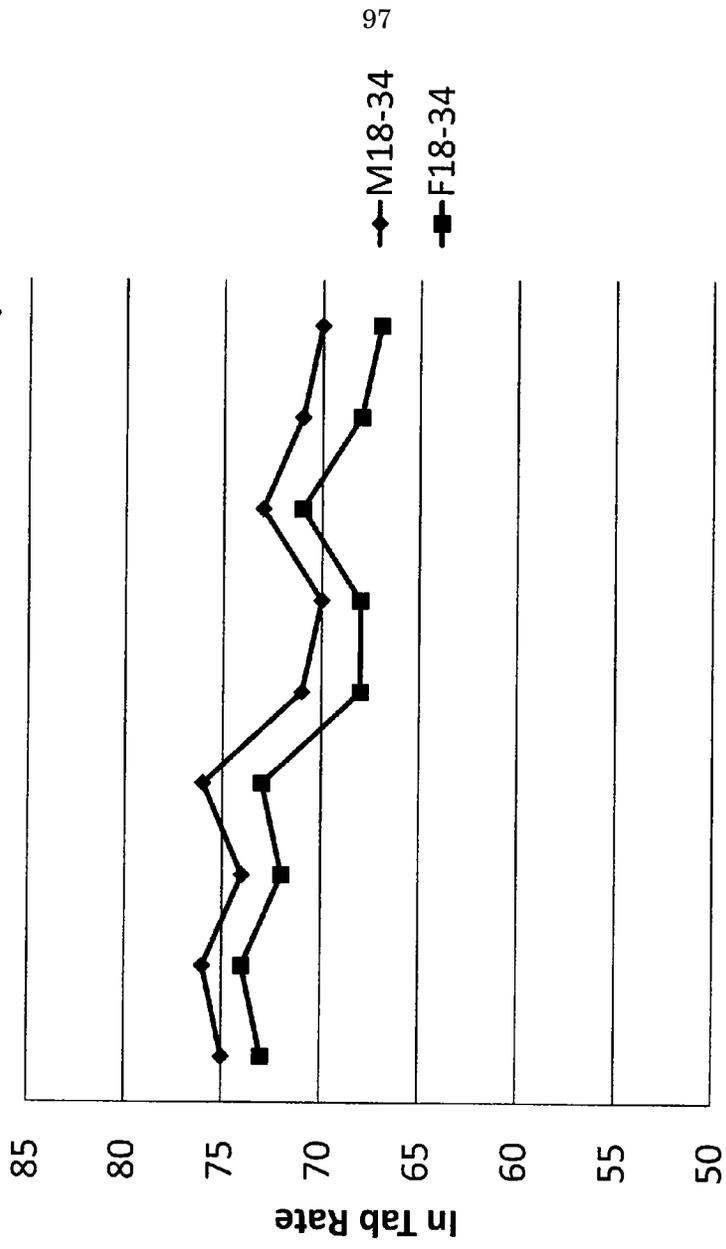


Jan Feb Mar Apr May June July Aug Sept

Chicago 18-34 Intab Rates, Jan-Sept '09



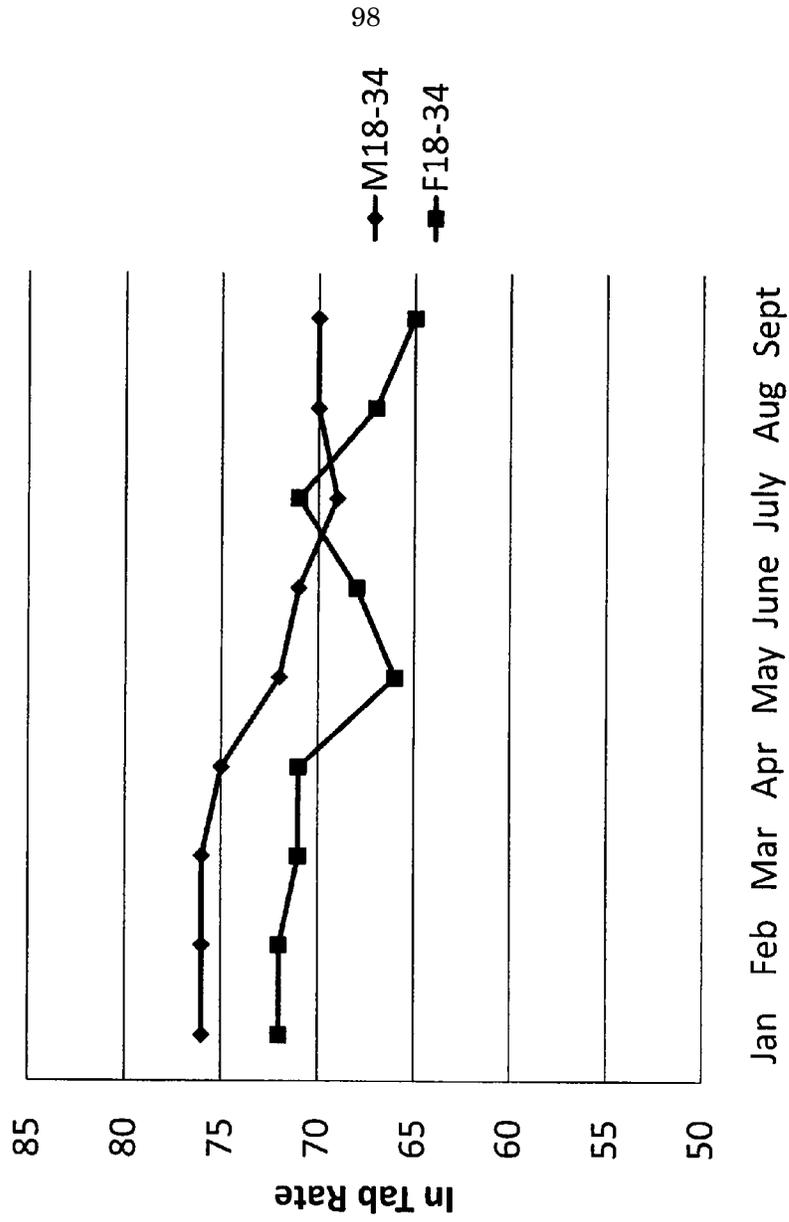
Dallas 18-34 Intab Rates, Jan-Sept '09



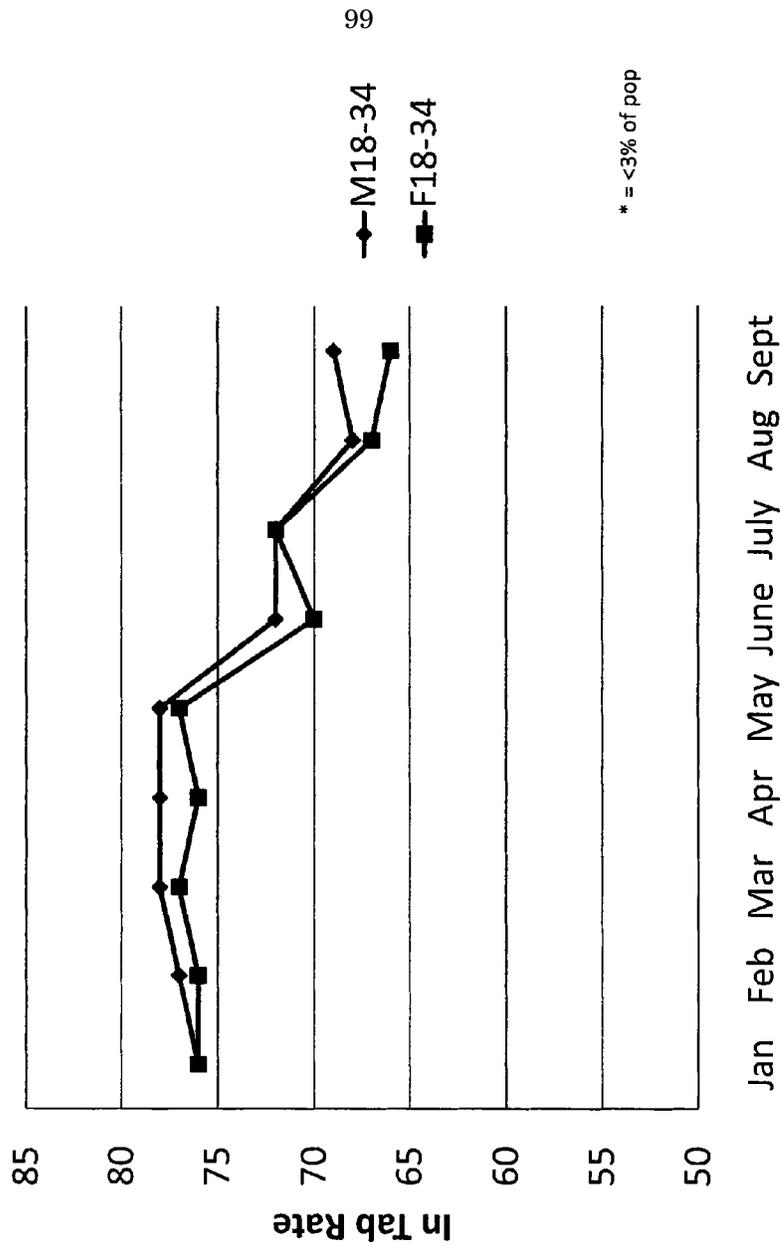
Jan Feb Mar Apr May June July Aug Sept

97

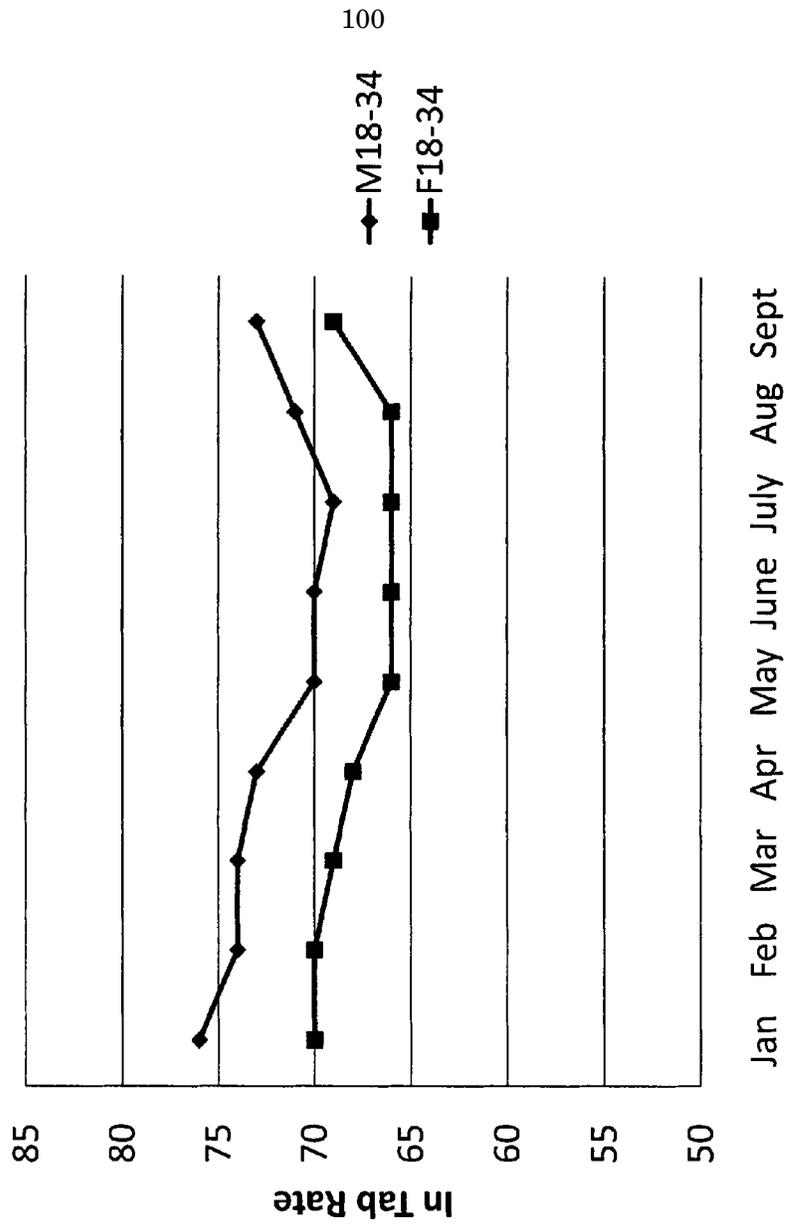
Detroit 18-34 Intab Rates, Jan-Sept '09



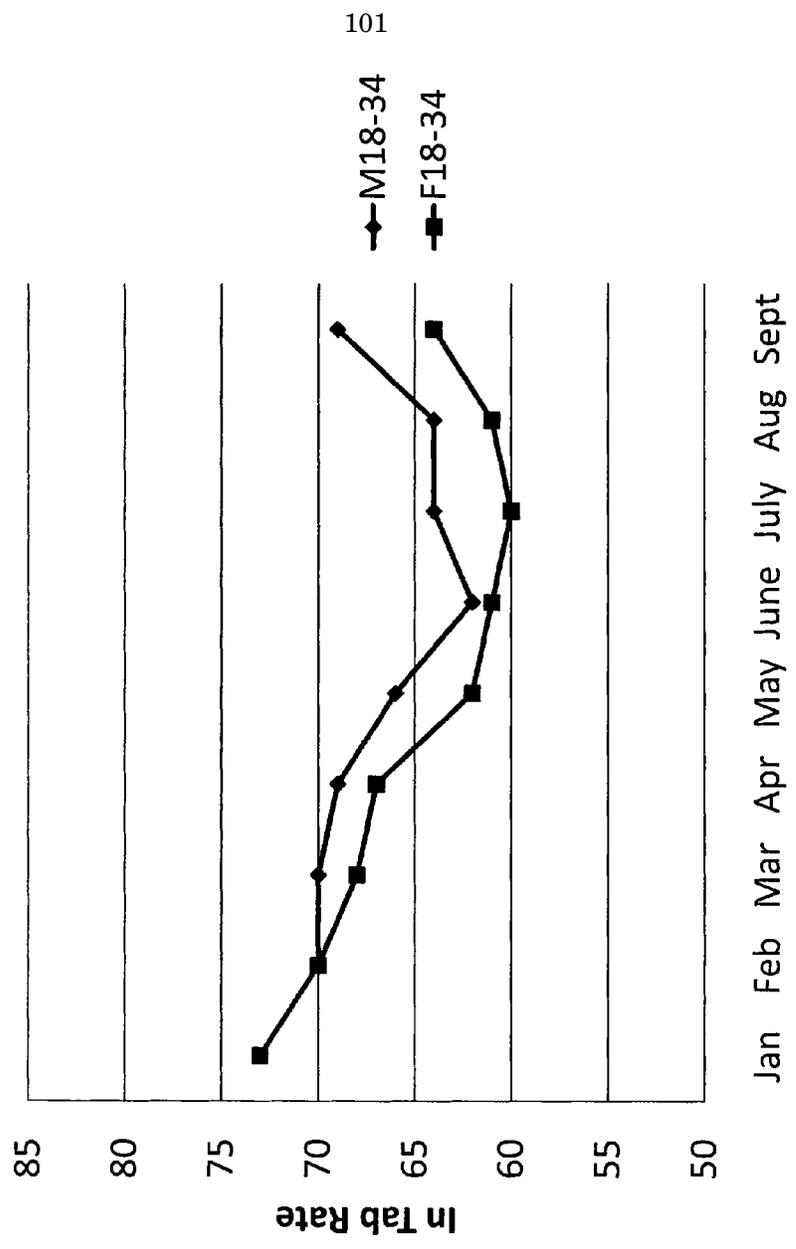
Los Angeles 18-34 Intab Rates, Jan-Sept '09



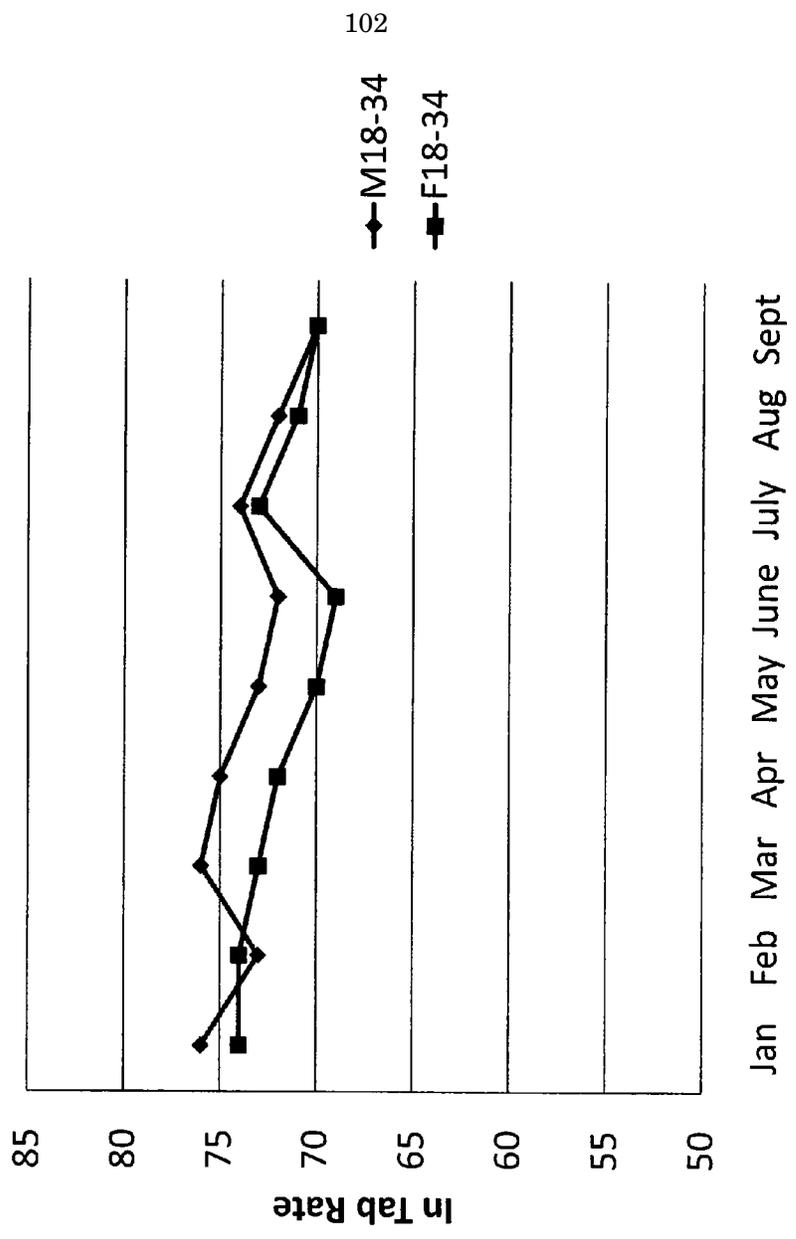
New York 18-34 Intab Rates, Jan-Sept '09



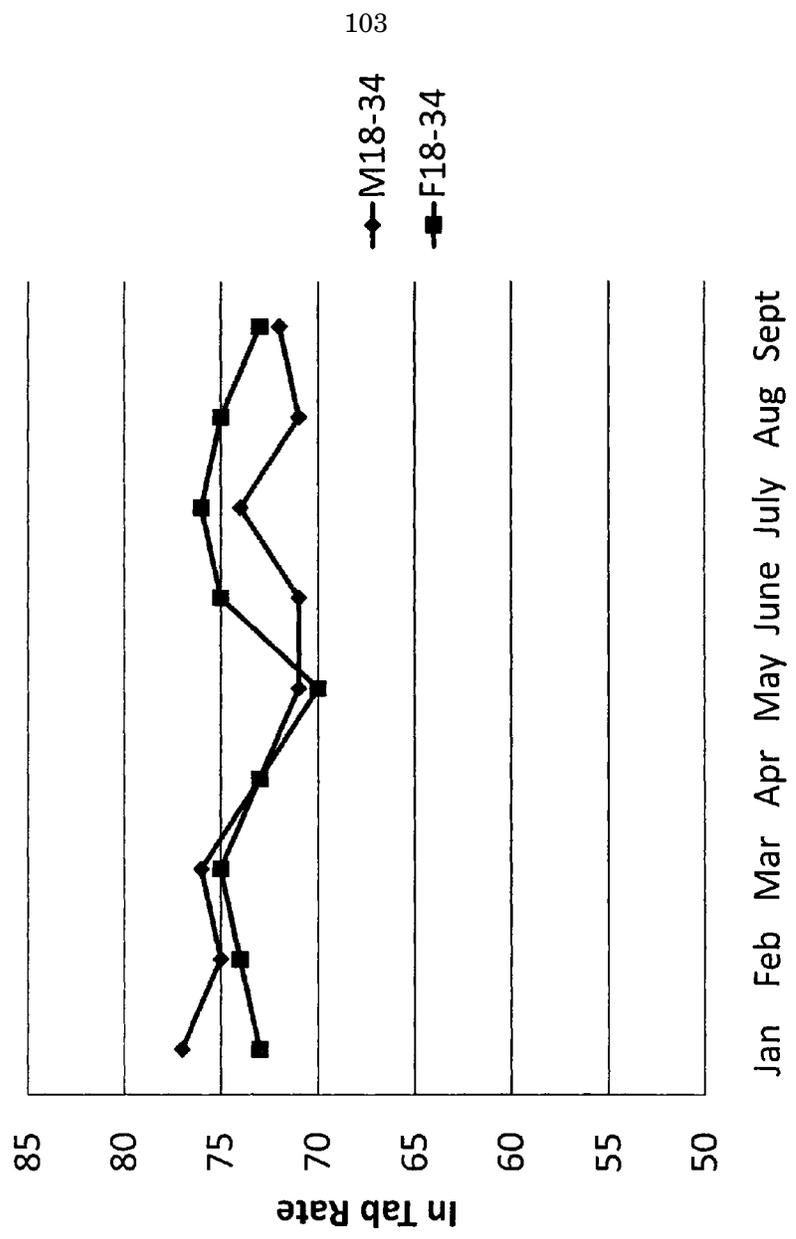
Philadelphia 18-34 Intab Rates, Jan-Sept '09



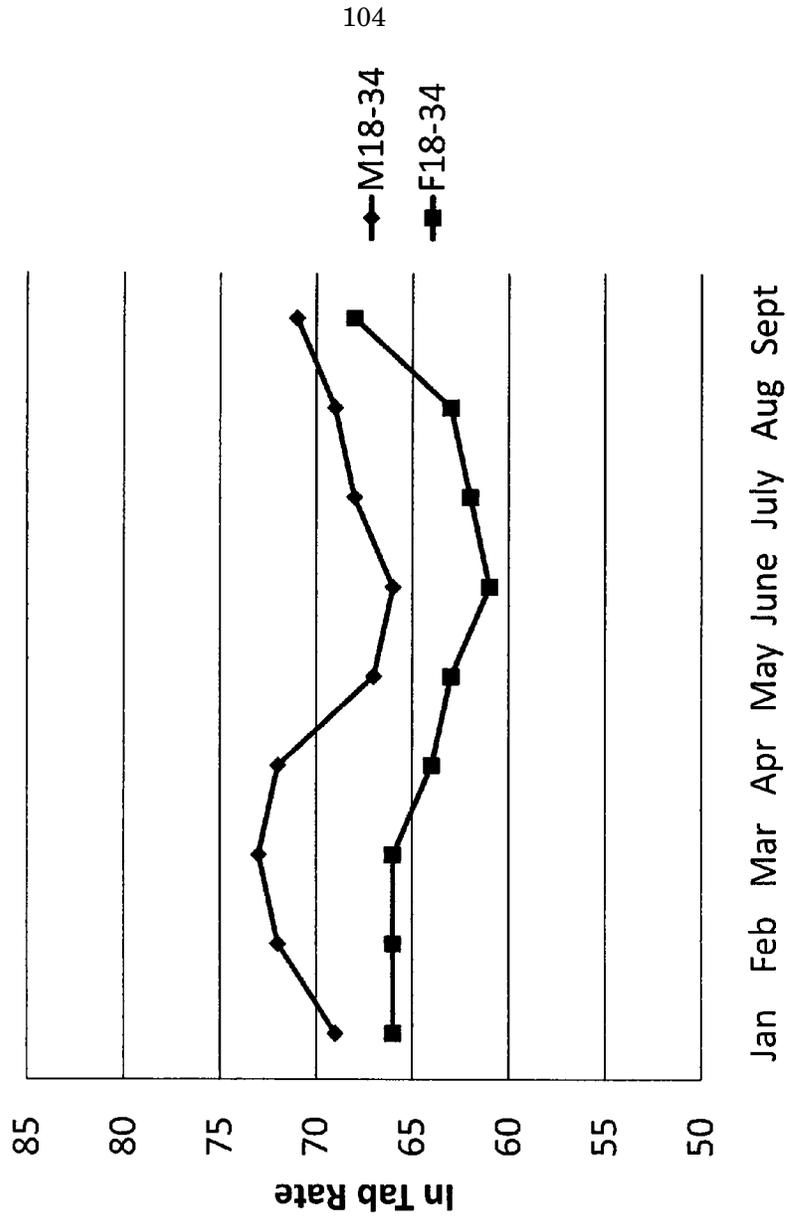
San Francisco 18-34 Intab Rates, Jan-Sept '09



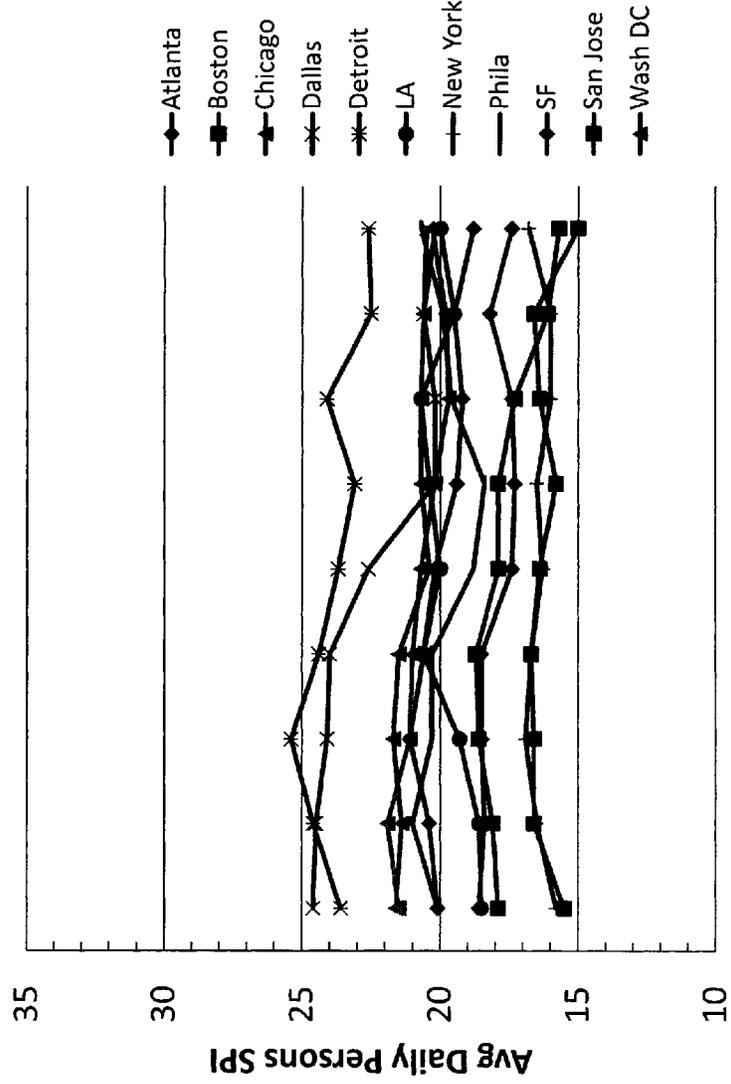
San Jose 18-34 Intab Rates, Jan-Sept '09



Washington DC 18-34 Intab Rates, Jan-Sept '09



SPI Trends by Market, Jan-Sept '09



Jan Feb Mar Apr May June July Aug Sept

EXHIBIT G

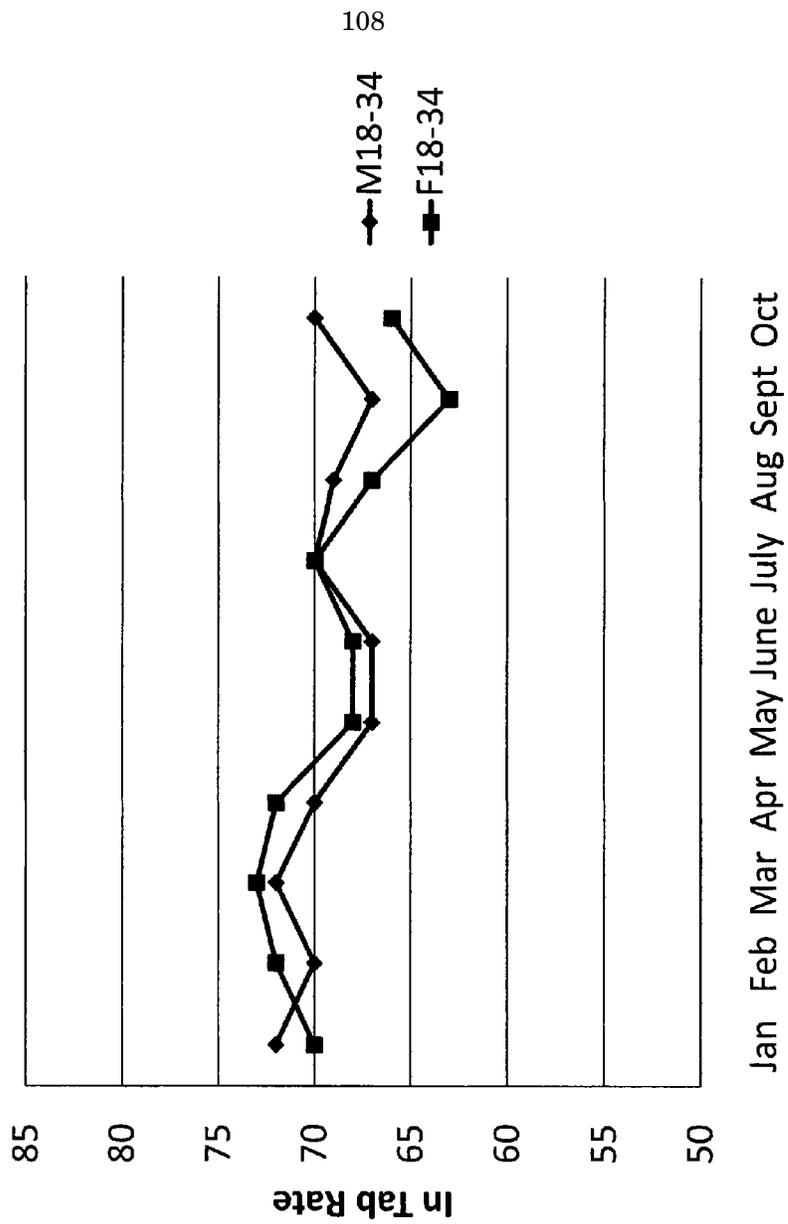
Review of PPM Market-Level Trends, January – October 2009: 18-34 Intab Rates, Sample Performance Indicators (SPI)

107

All Unaccredited PPM Markets*
Commercialized as of March 2009

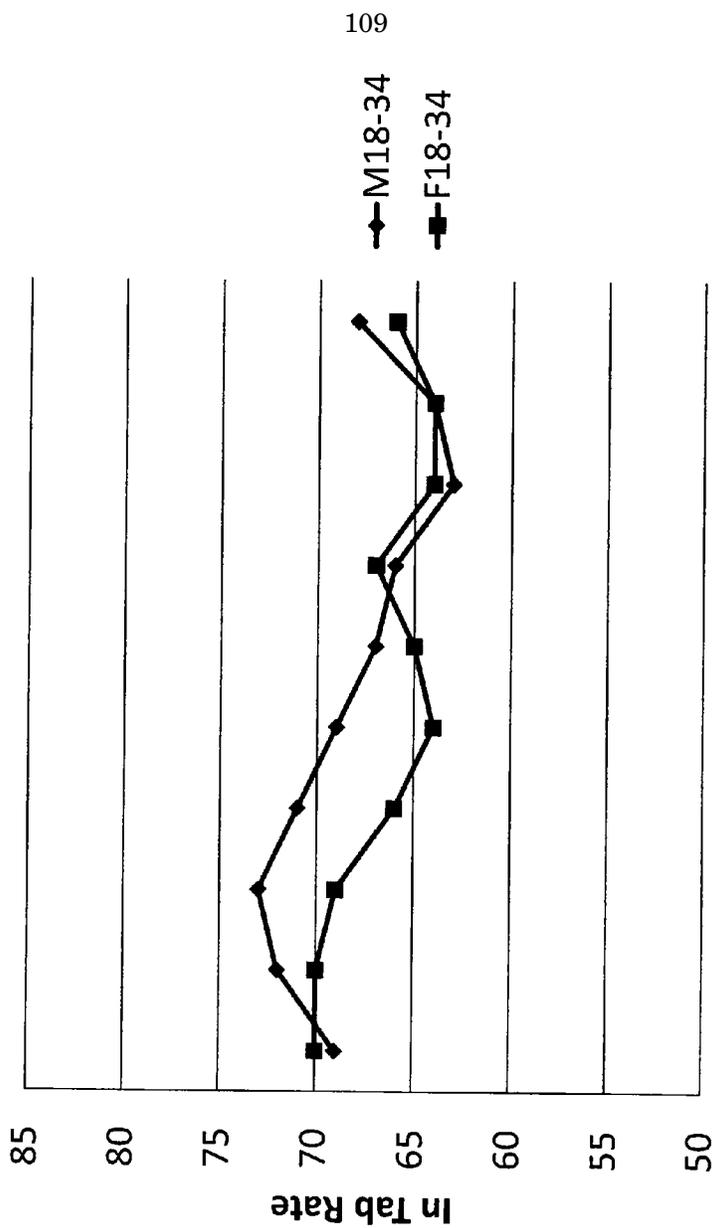
* Houston and Riverside markets are currently accredited and are not included.

Atlanta 18-34 Intab Rates, Jan-Oct '09



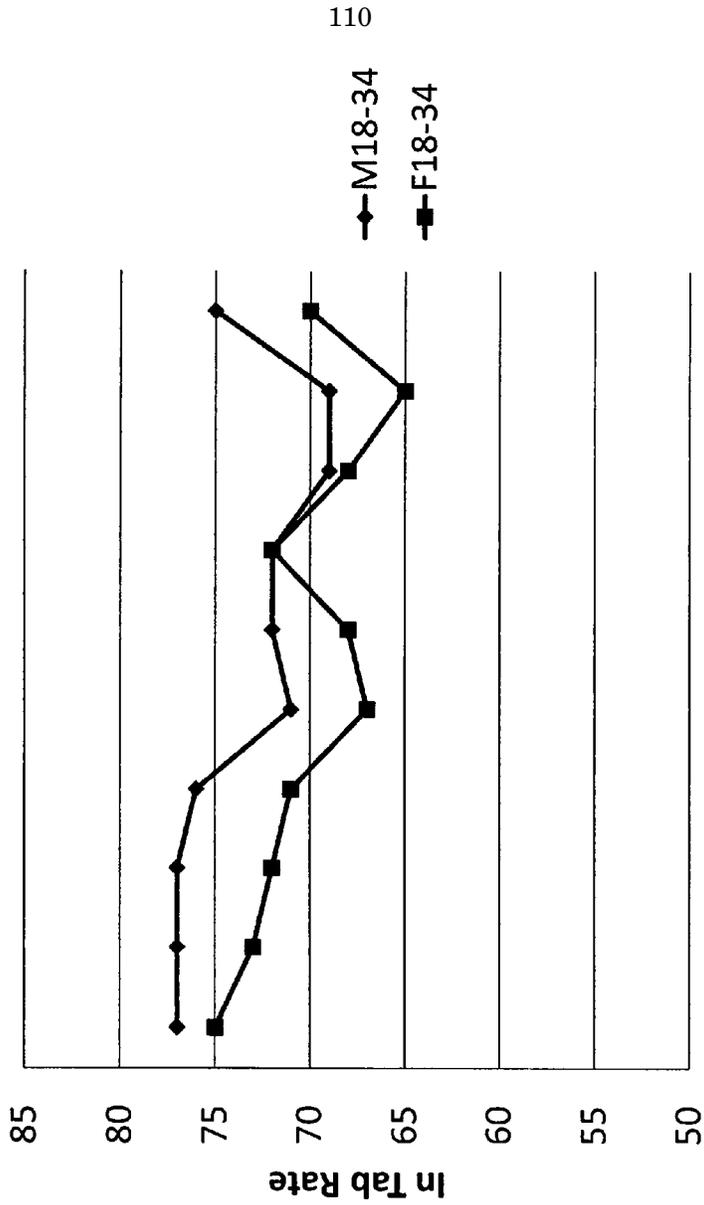
108

Boston 18-34 Intab Rates, Jan-Oct '09



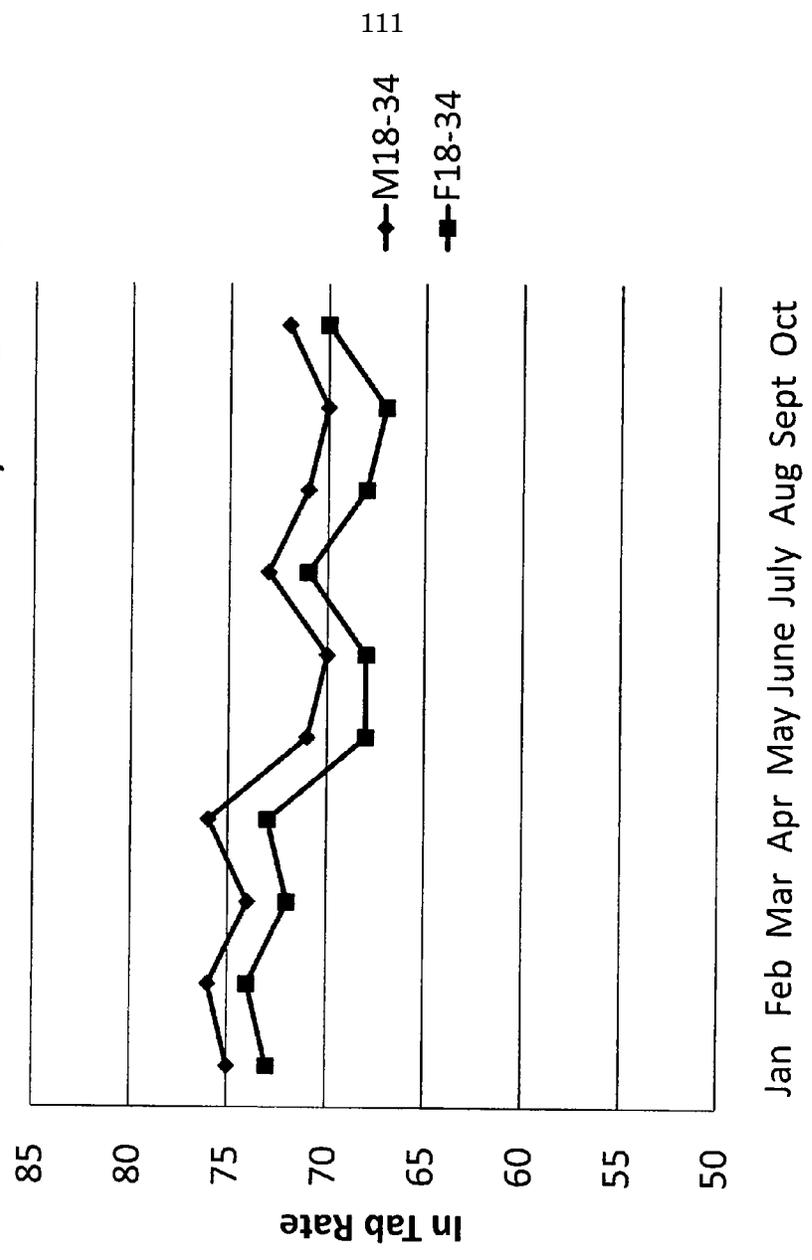
Jan Feb Mar Apr May June July Aug Sept Oct

Chicago 18-34 Intab Rates, Jan-Oct '09

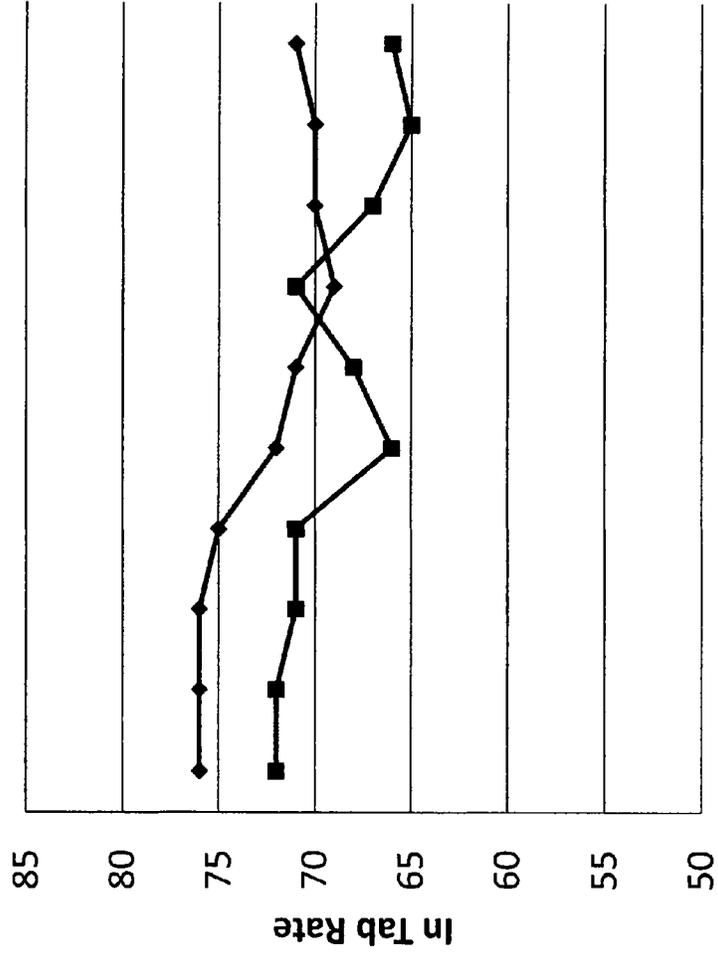


Jan Feb Mar Apr May June July Aug Sept Oct

Dallas 18-34 Intab Rates, Jan-Oct '09



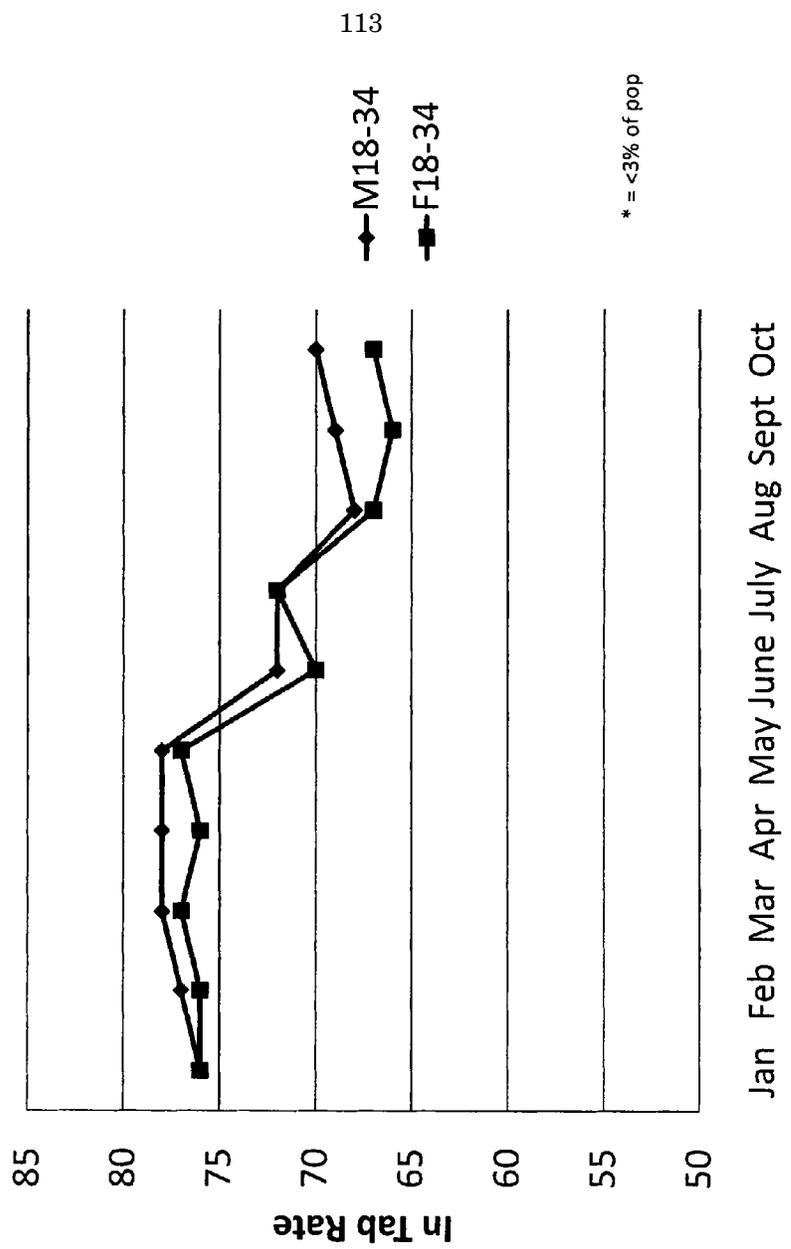
Detroit 18-34 Intab Rates, Jan-Oct '09



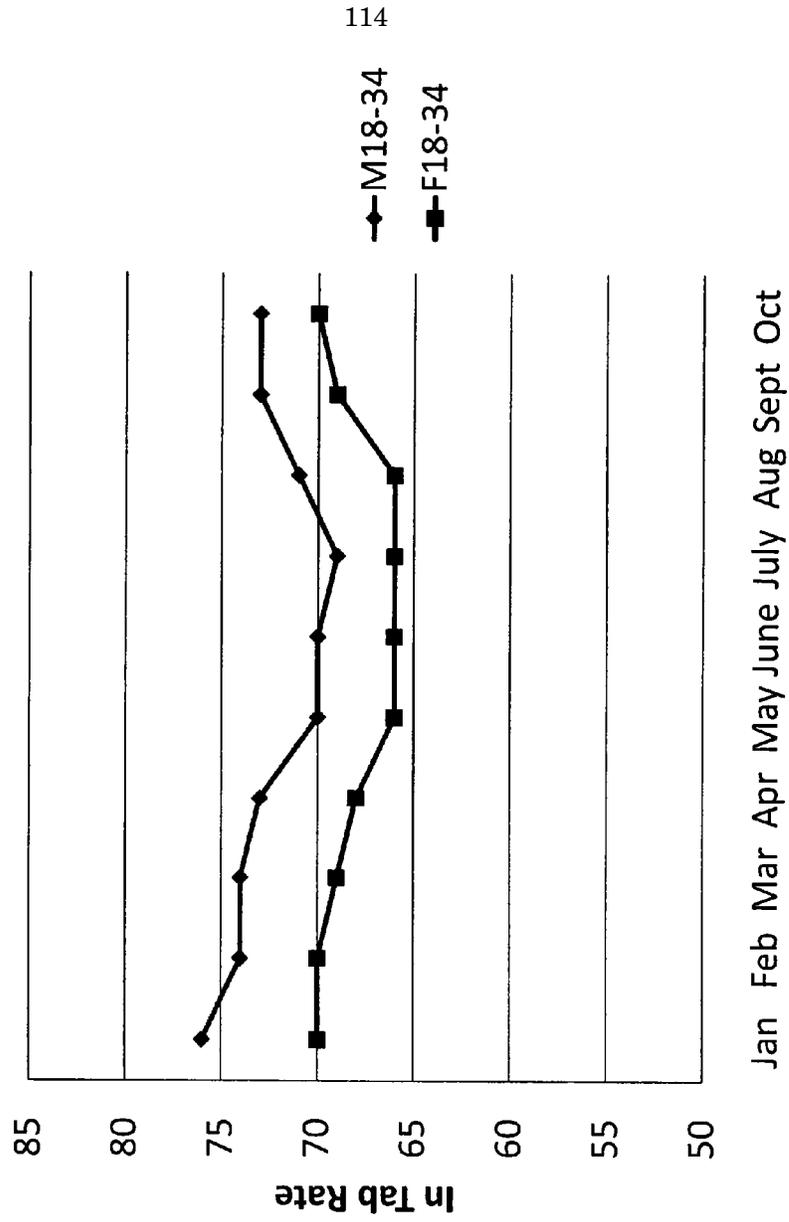
◆ M18-34
■ F18-34

Jan Feb Mar Apr May June July Aug Sept Oct

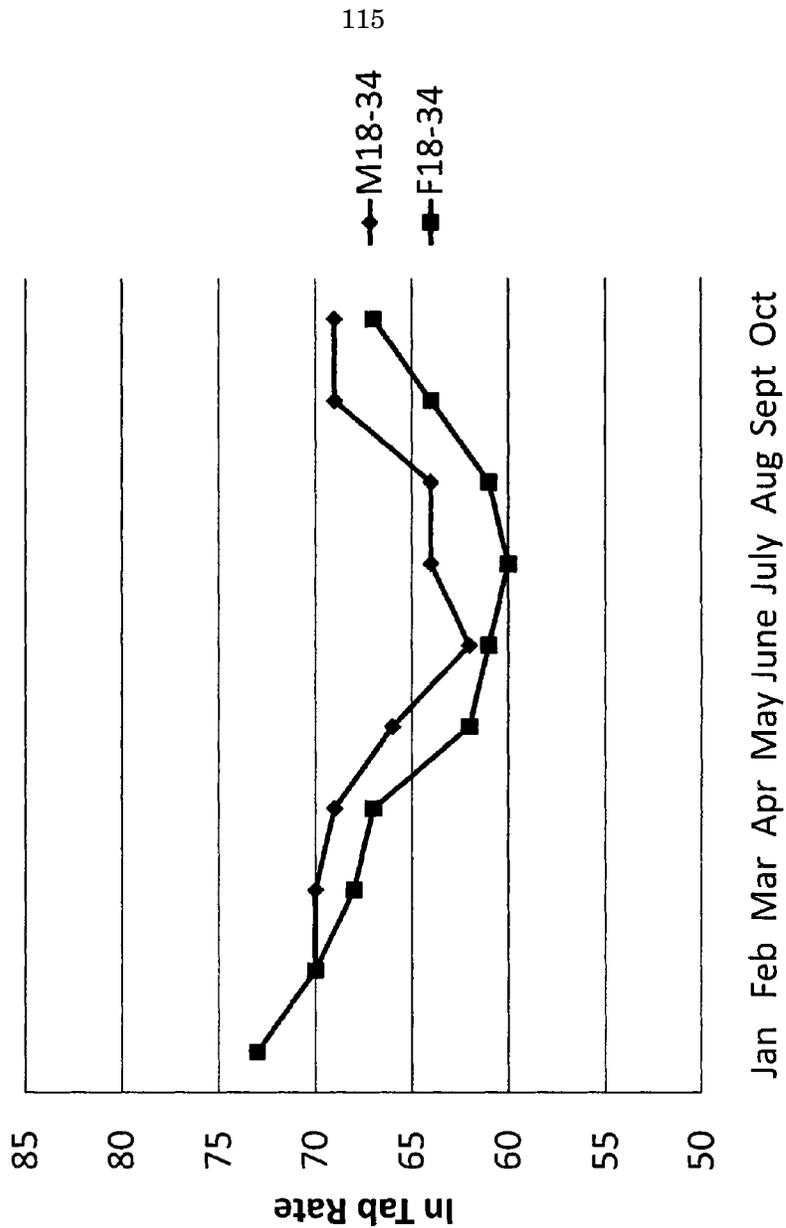
Los Angeles 18-34 Intab Rates, Jan-Oct '09



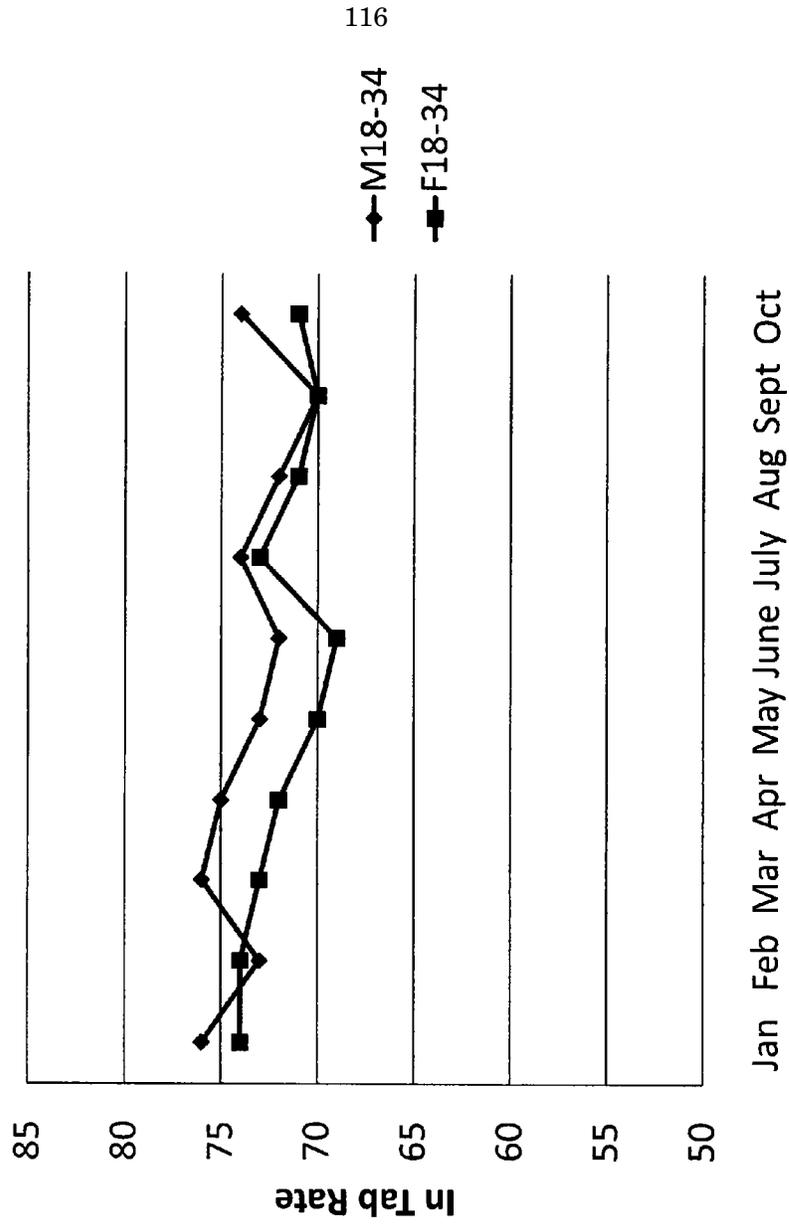
New York 18-34 Intab Rates, Jan-Oct '09



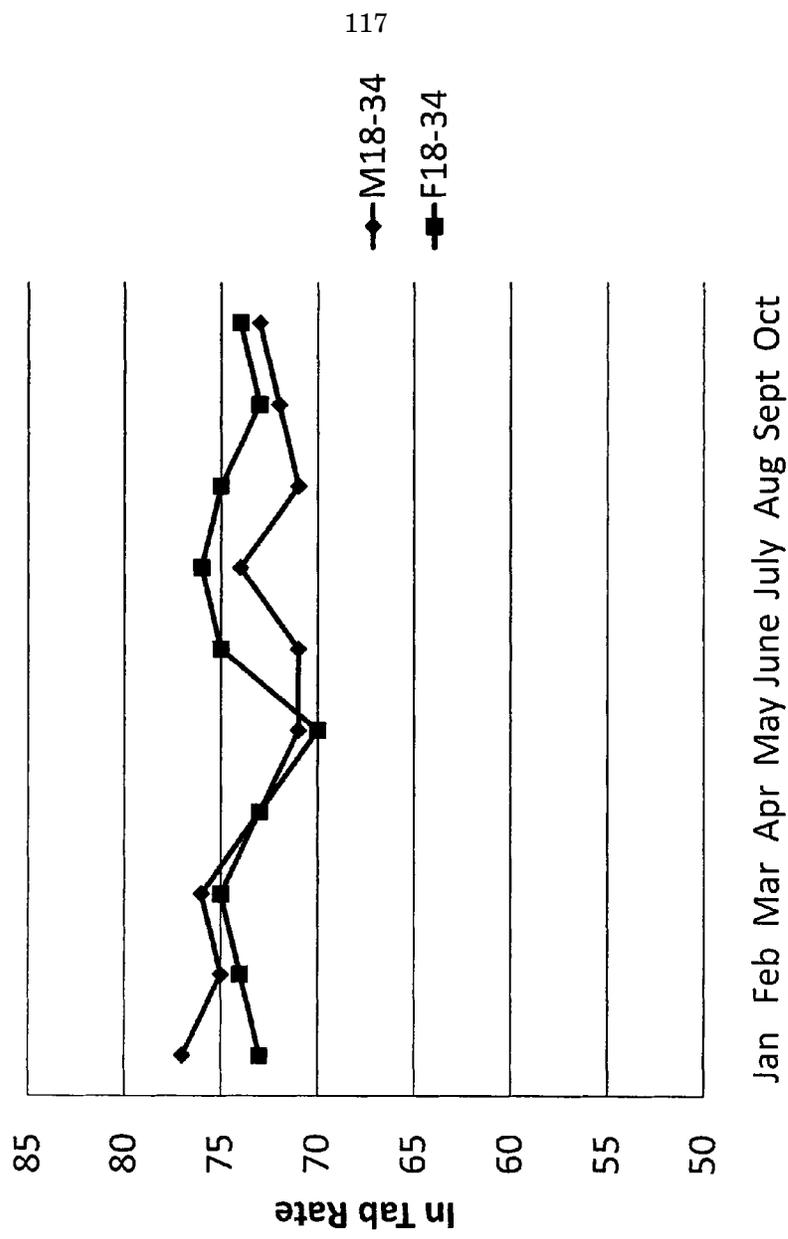
Philadelphia 18-34 Intab Rates, Jan-Oct '09



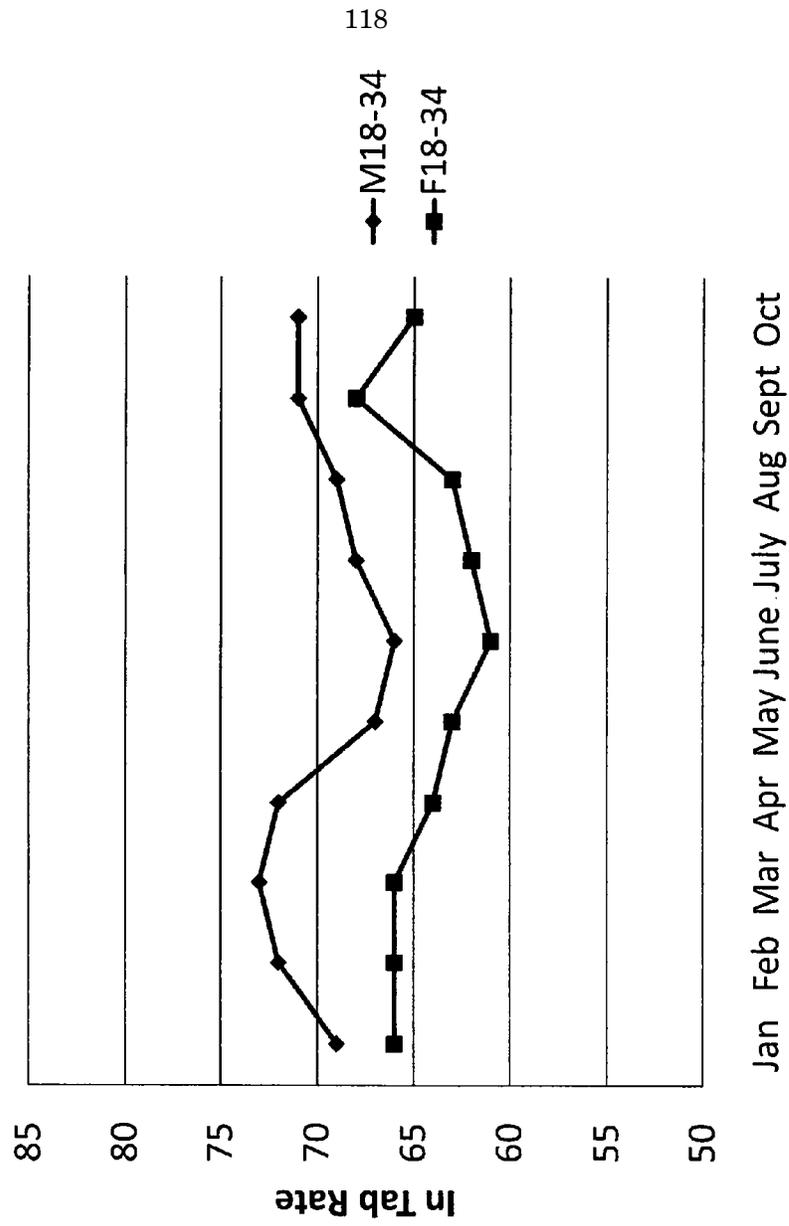
San Francisco 18-34 Intab Rates, Jan-Oct '09



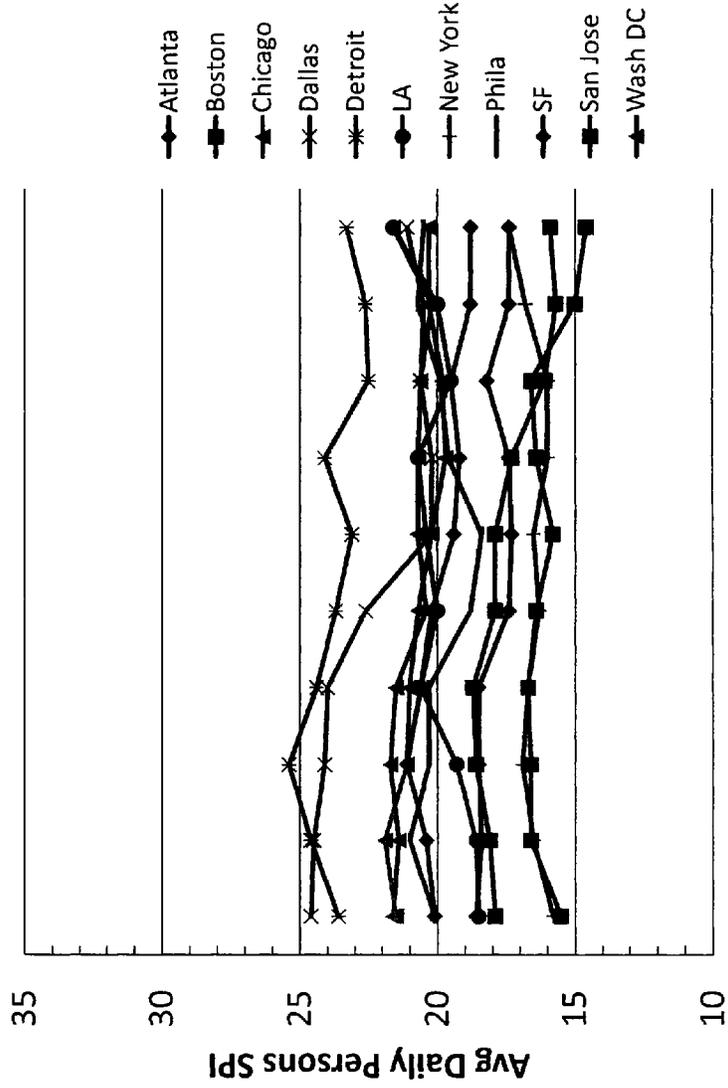
San Jose 18-34 Intab Rates, Jan-Oct '09



Washington DC 18-34 Intab Rates, Jan-Oct '09



SPI Trends by Market, Jan-Oct '09



Jan Feb Mar Apr May June July Aug Sept Oct

EXHIBIT H



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Council, Inc.**

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December 2009

MEDIA RATING COUNCIL – 2009 MEMBERSHIP

A&E Television	FOX Broadcasting
ABC Networks	FOX News Channel
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Allbritton Communications	FOX Television Stations
American Urban Radio Networks	Galavision Cable Networks
Anheuser-Busch	Gannett Broadcasting
AOL	Google
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AT&T Mobility	Hearst Publications
Barrington Broadcasting	Hearst Television
Belo Corporation	Horizon Media
Bonneville International Corp.	Initiative Media
Cable Advertising Bureau (CAB)	Inner City Broadcasting
Carat North America	Interactive Advertising Bureau (IAB)
CBS	Lifetime Television
CBS Interactive	LIN Television
CBS Radio	Lincoln Financial Media
CBS Television Stations	Magazine Publishers of America (MPA)
Clear Channel	MAGNA Global
Comcast Networks	Makeover Solutions
Comcast Spotlight	Media General
Condé Nast	Media Management Inc. (MMI)
Cox Radio	MediaCom
Cox Television	Mediaedge:cia
Crown Media	MediaVest
CW Television Network	Meredith Broadcasting Group
Dial Global	Meredith Corporation
Discovery Communications	Microsoft
Disney	Microsoft Atlas
Dispatch Printing Co.	MindShare
DRAFTFCB	Mobile Marketing Association (MMA)
Emmis Broadcasting	MSNBC
Entravision	MTV Networks
ESPN	National Association of Broadcasters (Radio)
FLO TV, A Qualcomm Co.	National Association of Broadcasters (TV)
Forbes	National Cable Communications (NCC)

National CineMedia	TargetCast
National Public Radio (NPR)	Telefutura Network
NBC Television Networks	Telemundo
NBC Television Stations	Televisa de S.A.
NBC Universal	Television Advertising Bureau (TVB)
New Jersey Broadcasters Association	Time Warner
New York Times	Time Warner Cable
Newspaper Association of America (NAA)	Tribune Broadcasting
OMD	Turner Broadcasting
PARADE	TV Azteca
PHD USA	Unilever
Post-Newsweek	United Stations Radio Networks
Premiere Radio	Universal McCann
Procter & Gamble	Univision
Radio Advertising Bureau (RAB)	Univision Online
Radio One	Univision Radio
Radio Research Consortium (RRC)	USA Weekend
Raycom Media	Wall Street Journal
Saga Communications	WAPA TV/Televisi3n de Puerto Rico
Scripps Networks	The Weather Channel
Scripps Television Station Group	Yahoo!
Starcom Media Group	Zenith Media
Sunbeam Television Corp.	

EXHIBIT I

UNITED STATES OF AMERICA
WASHINGTON, D.C. 20580



FEDERAL TRADE COMMISSION

Office of the Chairman

March 25, 2005

The Honorable Conrad Burns
United States Senate
Washington, D.C. 20510-2603

Dear Senator Burns:

I am responding to your letter concerning Nielsen Media Research's new system for measuring television viewing in local markets, the Local People Meter system ("LPM"). You expressed concern that Nielsen Media Research ("Nielsen") is introducing this system into local markets despite problems with accuracy and without accreditation from the industry self-regulatory body, the Media Ratings Council ("MRC").¹ I appreciate your staff meeting with the FTC staff to explore your concerns further.

As recommended by your staff, the FTC staff met with the MRC and has reviewed a range of materials concerning LPMs. Subsequently, and after consulting with your staff, we believed it worthwhile to meet with representatives of the Don't Count Us Out Coalition and Fox Television Stations, Inc., as well as representatives of Nielsen before responding to your inquiry. The staff has learned that Nielsen has voluntarily submitted its LPM systems to the MRC for audit, and extensive audits have been and are being conducted on the MRC's behalf by Ernst & Young. Both Nielsen and the MRC agree that the people-meter approach to audience measurement is appropriate and, indeed, capable of being more reliable than the systems it would replace. An accredited national people meter system has been in place for some time. The audits have demonstrated problems with LPM implementation, and Nielsen has not challenged the legitimacy of the audit results through the available MRC appeals process. To the contrary, it has been working with the MRC to correct the problems and attain accreditation.²

¹ As you know, the MRC was established by the industry in the 1960s in response to congressional concerns with the reliability of media ratings. Its members include customers of Nielsen and others concerned with broadcast ratings, including broadcasters, cablecasters, advertisers, advertising agencies, and industry trade associations.

² In addition, Nielsen has agreed to implement many of the recommendations contained in a recent report by the Independent Task Force on Television Measurement. News Release, Nielsen to Implement Recommendations of Independent Task Force on Television Measurement (Mar. 23, 2005), available at http://www.everyonecounts.tv/news/0323_taskforcereport.htm. The report's recommendations included improvements in the composition of the LPM samples, training for the field force, and fault rates. INDEPENDENT TASK FORCE ON TELEVISION MEASUREMENT, REPORT OF THE INDEPENDENT TASK FORCE ON TELEVISION MEASUREMENT (2005), available at <http://www.everyonecounts.tv/news/documents/taskforcereport.pdf>. Problems with these factors can have disproportionate effects on certain communities.

The Honorable Conrad Burns - Page 2

The MRC and Nielsen both recognize that there are significant challenges in implementing an LPM system. Also, various parties may disagree about whether Nielsen has acted with an appropriate level of effort and speed in addressing problems with the LPM system implementation. Nonetheless, it appears to the Commission that the existing self-regulatory approach is having a significant effect in attaining both extensive transparency and greater reliability in media ratings. In many circumstances well-constructed industry self-regulatory efforts can be more prompt, flexible, and effective than government regulation.³

³ See, e.g., Federal Trade Commission Report, Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries 3 (2000); Federal Trade Commission Report to Congress, Self-Regulation in the Alcohol Industry 3 (1999).

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The staff's discussions with the MRC and others and the materials staff has reviewed do not show that Nielsen has engaged in deceptive or unfair practices in violation of the FTC Act, such as misrepresenting its ratings system or failing to disclose material facts about the system.⁴ An act or practice is deceptive under Section 5 of the FTC Act if: 1) if there is a representation or omission of information that is likely to mislead the consumer acting reasonably under the circumstances; and 2) if that representation or omission is "material" – defined as an act or practice likely to affect the consumer's choice of or conduct regarding a product or service.⁵ When the Commission considers whether a representation or sales practice is misleading, it determines reasonableness from the perspective of the target audience.⁶ Therefore, the Commission's determination of both the claims that reasonable consumers take from an advertisement and the extent to which a misrepresentation or omission of information is injurious to consumers are fact-specific questions dependent on the context in which the claims are conveyed, the nature of the audience for the claims, and the materiality of the representation to the target audience.

The audience for Nielsen's statements about its rating services consists largely of media companies, many of which are highly sophisticated and capable of evaluating the information Nielsen provides. Nielsen frequently has expressed its opinion of the LPM system's accuracy, particularly in comparison with alternative systems, but Nielsen also discloses in detail the methodology and shortcomings of the system. The FTC staff's discussions and review of materials submitted to us have not indicated that Nielsen has misrepresented the LPM system or failed to disclose facts material to its customers' decisions. Moreover, the MRC's audits provide a great amount of transparency to Nielsen's customers about Nielsen's methods and products. Under those circumstances, deception in violation of Section 5 of the FTC Act seems unlikely.

⁴ Section 5 of the FTC Act prohibits unfair or deceptive practices that are in or affecting commerce. A practice is unfair under Section 5 if it causes, or is likely to cause, substantial injury to consumers which is not reasonably avoidable and is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n). Section 5 also prohibits unfair methods of competition which include exclusionary monopoly practices, collusion, and anticompetitive mergers. Staff's discussions and the material presented do not evidence such anticompetitive activity. If Nielsen should attempt to obtain or maintain monopoly power through anticompetitive mergers or other unfair methods of competition, Section 5 and the Clayton Act, 15 U.S.C. §§ 12-27, are sufficient to allow the Commission to halt such practices.

⁵ Deception Policy Statement, appended to Cliffdale Associates, Inc., 103 F.T.C. 110, 175, 182 (1984).

⁶ Id. at 179.

The Honorable Conrad Burns - Page 4

The Commission cannot judge whether the LPM system or alternative systems now in use – which have shortcomings as well – come closer to the actual truth of audience viewing behavior. Absent deceptive or unfair practices, it would not be within the Commission's authority to impose quality standards for accuracy in audience measurement.

Thank you for your inquiry in this matter. Please let me know if you would like any additional information.

Sincerely,

Deborah Platt Majoras
Chairman

Chairman TOWNS. Thank you very much.
Ms. Shagrin.

STATEMENT OF CERIL SHAGRIN

Ms. SHAGRIN. Chairman Towns, Ranking Member Issa, members of the committee, my name is Ceril Shagrin and I am executive vice president, Corporate Research Division, Univision Communications, Inc., which owns and operates 68 local Spanish language radio stations across the country.

The focus of my testimony today is the serious flaws in Arbitron's Personal People Meter radio ratings measurement system and the adverse effects of those flaws on minority broadcasters and listeners. I appreciate the opportunity to speak to you today.

I have worked in the media ratings industry for over 30 years. I am here today because I am concerned that the radio ratings system is facing a crisis that threatens to undermine the goal of the diverse radio marketplace.

In 2007, Arbitron began rolling out its currency, its PPM system and methodology. From the outset, Arbitron promoted the PPM system as a technological advance from the older paper diary system, a 21st century ratings technology.

While the PPM technology may be 21st century, the underlying research methodologies upon which the system is based is still very much stuck in the 20th century, are badly flawed and are creating havoc in the radio marketplace. From the outset, the data provided under the PPM system evidenced erratic rating swings for which there is no plausible explanation other than the quality and reliability of the sample.

For example, Univision's Los Angeles-based KLVE saw its ratings plummet 54 percent from first quarter 2008 to first quarter 2009. As Arbitron introduced the PPM system into over 30 markets nationwide, it submitted the system to the Media Ratings Council for accreditation. To date, the MRC, the independent industry body established by Congress to oversee media ratings services, has failed to credit the PPM in all but two markets.

The MRC's decision to withhold accreditation is not arbitrary. While MRC proceedings are confidential, the PPM system's flaws have been well documented in public sources and can be assumed to factor heavily in MRC's accreditation decisions.

First, Arbitron recruits from the wrong sample frame. Arbitron's primary sample frame includes only households with land line telephone numbers. Households with no telephones and cell phone only households are excluded from the main sample frame. Minorities are present in these excluded categories at a much higher rate than other groups.

Second, Arbitron includes cell phone only households via a separate sample with very low response rates that is controlled to contribute 10 to 15 percent of the households in each market, but cell phone only households are disproportionately young and minority. Twenty-five percent of Hispanics live in cell phone only households as do 21.4 percent of African-Americans and 41.5 percent of those aged 25 to 29. Of course the number of cell phone only households continues to grow month after month.

Third, African-American and Hispanic listeners are under-represented in the sample panels. Arbitron has proved unable to meet its own internal metrics for minority participation in its sample panels. Even when there are enough, they are not representative.

Fourth, Arbitron panels are too small. For example, in Atlanta, each African-American panelist is assumed to represent 10,000 others.

Fifth, PPM panelists do not receive training or support they need to use the devices properly.

Every single one of these issues is entirely fixable. All that is required is for Arbitron to apply the same commitment that it has shown to using 21st century ratings technology to implement 21st century research methodology. That means recognizing that in the 21st century, wireless America, an address-based sample is preferable to a land line-based sample. It means recognizing that in 21st century diverse America, in-person recruiting, bigger more representative samples and robust participant training are not luxuries. They are necessities.

Creating the kind of 21st century methodology is entirely possible. We know these things are possible because Arbitron has already done them in Houston. In Houston, Arbitron made the needed investment in an address-based sample frame and in-person recruitment and as a result, the PPM system was given MRC accreditation.

What is good enough for Houston, should be good enough for the rest of America. Arbitron must reaffirm its genuine commitment to the MRC process, not simply going through the motions of the audit. Arbitron should agree that it will not make new ratings systems currency in markets until the MRC has accredited them.

Meanwhile, Arbitron should agree to maintain the previous diary-based system in parallel to the new electronic system until MRC provides accreditation. Maintaining the diary system service is the only alternative that allows buyers and sellers to have usable measurements during the time it takes Arbitron to address the flaws in the PPM service. These changes must be made in haste. Every day that passes, the ability of minority broadcasters to continue meeting the needs of our communities is threatened. The time for action is now.

Mr. Chairman, I appreciate the opportunity to share these views with you today and I would be pleased to answer any questions you or members of the committee may have.

[The prepared statement of Ms. Shagrin follows:]

**Written Testimony of Ceril Shagrin
Executive Vice President Corporate Research Division
Univision Communications Inc.**

**Before the
Committee on Oversight and Government Reform
United States House of Representatives**

“Will Arbitron’s Personal People Meter Silence Minority Owned Radio Stations?”

December 2, 2009

Chairman Towns, Ranking Member Issa, and members of the Committee, my name is Ceril Shagrin and I am Executive Vice President Corporate Research at Univision Communications Inc., which owns and operates 68 local Spanish-language radio stations across the country. The focus of my testimony today is the serious flaws in Arbitron’s Personal People Meter (PPM) radio ratings measurement system and the adverse affects of those flaws on minority broadcasters and listeners. I appreciate the opportunity to speak to you today on this important subject.

I have worked in the media ratings industry for over thirty years. Over the course of my career I have witnessed enormous changes both in the way audiences are measured and in the way ratings service providers operate. This context informs my testimony today and leads me to conclude that the radio ratings system is facing a crisis that threatens to undermine the goal of a diverse radio marketplace and deny tens of millions of listeners access to the programming they want because their listening choices are not being accurately counted by Arbitron’s new PPM service.

To appreciate the scope of this crisis, it is important to note at the outset that the Arbitron radio ratings service is a monopoly in all of the largest media markets in the country.

*Written Testimony of Ceril Shagrin
Executive Vice President Corporate Research Division
Univision Communications Inc*

As a result, Arbitron faces no market-based discipline. For radio broadcasters and marketers Arbitron is, quite literally, the only game in town. This is why even broadcasters who harbor deep concerns about the validity of Arbitron's ratings under the PPM system continue to use the data -- they simply have no choice.

Moreover, Arbitron is not subject to any direct government oversight. There is no regulatory agency charged with overseeing Arbitron's operations or ensuring the validity of its data. Thus, Arbitron operates with virtually no checks and balances other than the company's own sense of responsibility to its customers, and more importantly, to the radio listening public.

I regret to say that over the past two years Arbitron has demonstrated a pattern of behavior that leads to the inescapable conclusion that the company is failing to live up to that responsibility.

In 2007, Arbitron began rolling out its PPM system in the largest media markets in the country including New York City, Los Angeles, Chicago and Philadelphia. From the outset, the data provided under the PPM system evidenced erratic ratings swings for which there is no plausible explanation other than the quality and reliability of the sample -- especially among minority-targeted stations. For example, Univision's Los Angeles-based KLVE saw its ratings plummet 54 percent from 1st Quarter 2008 to 1st Quarter 2009 -- nearly half its audience simply vanished. As a result, this station, which serves the needs of Los Angeles' large and growing Spanish-speaking community, fell from the Number 1 rated radio station in the Los Angeles market to Number 5. Similar purported declines have been experienced by Spanish-language and urban stations in virtually all PPM markets.

Recognizing the threat posed by these anomalies in the PPM system to the needs of minority listeners, public officials at the local, state and federal level have repeatedly acted to try to persuade Arbitron to fix its system. State Attorneys General from New York, New Jersey and Florida have filed suit; the state Attorney General of Maryland reached a separate agreement with Arbitron. Letters were sent to Arbitron by dozens of Members of Congress, including then-Senator Barack Obama, urging the company to amend its practices. Concerns have been raised by organizations ranging from the NAACP to the Association of Hispanic Advertising Agencies.

In the face of such overwhelming industry and public concern, a responsible company would be expected to pause and reevaluate its course of action. Arbitron did no such thing. Instead, the company has persisted in a single-minded drive to push the PPM system into as many new markets as quickly as it can.

Meanwhile, the Congressionally-mandated system for industry self-regulation of media ratings under the auspices of the Media Ratings Council (MRC) is facing a crisis of legitimacy. The PPM system has been submitted for MRC review in every market where it has been introduced. In all but two cases, the PPM has failed to gain accreditation. Put simply, the MRC has reviewed the PPM system in market after market and found that it does not meet minimum requirements of reliability or accuracy to merit accreditation. Yet Arbitron's relentless rollout of a flawed system continues.

The unaccredited PPM system has now been introduced as the sole currency for the radio industry in almost all major markets in the country. The minority-owned and minority-targeted stations whose audiences are being systematically undercounted by the PPM system are

facing an economic “perfect storm” as the impact of flawed ratings and recession threatens their viability.

When Arbitron embarks on a path of rolling out a ratings system in market after market, even as that system repeatedly fails to secure MRC accreditation, then Congress’s intent with the establishment of the MRC is being thwarted. And, more importantly, the American listening public ceases to have any guarantee that the listening choices they make every day will be the determining factor in the content that is on their dials.

This hearing is an opportunity to begin fixing that egregious state of affairs.

The MRC’s decision not to grant accreditation to the PPM system is not arbitrary. Although MRC proceedings are confidential, the PPM system’s flaws have been well documented in public sources and can be assumed to factor heavily into the MRC’s accreditation decisions.

In particular, it is important to understand that the problems with the PPM system are not technological. Indeed, Arbitron’s primary defense of the PPM system is to juxtapose it against the older paper-diary system and then to invoke the “common sense” view that electronic solutions are inherently more reliable.

But this is a red herring. Nobody questions that the PPM device itself is theoretically able to track what people are listening to with a higher level of accuracy than the paper-diary system. That is why Univision and the entire PPM Coalition have repeatedly stated that we favor electronic solutions.

However, we all recognize that even the most evolved technology in the world can only fulfill its purpose if those who are meant to use it -- in this case, Arbitron's sample -- are properly recruited, trained and retained, and accurately reflect the diversity of the audience they are meant to represent.

Arbitron's PPM system as currently deployed fails these basic tests in all but two markets.

First Arbitron recruits from an incomplete sample frame. Arbitron's primary sample frame includes only households with landline telephone numbers. Households with no telephones, and cell phone-only households, are excluded from the main sample. Significantly, minorities are present in these excluded categories at a much higher rate than other groups. Notably, Arbitron has an address-based sample methodology in Houston, one of only two markets in which Arbitron has been able to gain MRC accreditation for PPM, but Arbitron has declined to use that address-based methodology elsewhere, despite its demonstrated improved accuracy and reliability.

This is a serious methodological flaw. Indeed, the MRC has openly encouraged all measurement services to switch to address based samples due to the limitations of telephone-based samples. This MRC recommendation stems from the fact that only an address based sample can ensure that all households -- those with land lines, cell phone only and non phone households -- would have an equal opportunity to be chosen to participate in a PPM sample.

Second, Arbitron includes cell phone only households via a separate sample with low response rates that is controlled to contribute 10 percent of the households in each market. But cell phone only households are disproportionately young and minority -- 25 percent of Hispanics live in cell-phone households, as do 21.4 percent of African Americans, and 41.5 percent of those aged 25-29. Arbitron has committed to increase the cell phone only sample to 15 percent and eventually to 20 percent of total households in the next 12 to 18 months, but these figures still fall below the actual occurrence of cell phone only households in the Hispanic and Black communities. In the meantime, of course, cell phone only penetration continues to grow.

Third, Black and Hispanic listeners are underrepresented in the sample panels. Arbitron has proved unable to meet its own internal metrics for minority participation in its sample panels. For example, Arbitron recruited only 64 percent of the Black panelists it was seeking in Los Angeles in April 2009 and just 59 percent of the Black panelists it was seeking in Detroit. Even in markets where Arbitron may have enough Black and Hispanic panelists, the distribution by age and language does not represent the minorities in those markets.

Fourth, Arbitron's panels are unacceptably small. This leads to absurd anomalies. For example, in Atlanta, each Black panelist is assumed to represent 10,000 others. As a result, when a Black family of PPM panelists traveled to New York over Thanksgiving weekend last year, Arbitron reported that 30,000 Atlantans had tuned in to a New York station -- which could not be heard anywhere within a thousand miles of Atlanta -- and thus the station was the 34th most popular station in Atlanta that week. This incident would be funny if it wasn't emblematic of a problem that threatens the diversity of American radio.

Finally, PPM panelists do not receive the training or support they need to use the PPM device properly. This is manifest in the changes in morning listening habits purportedly measured by the PPM system. Thus, for decades, Arbitron reported that radio listenership peaked from 6:00 AM to 10:00 AM, while people listened to clock radios during their morning routine and to car radios during their drive to work. With the introduction of the device-based PPM, however, Arbitron reports that people no longer concentrate their radio listening in the morning. Does anyone other than Arbitron seriously believe that PPM panelists wear their PPM device while they awaken and get out of bed to the radio alarm clock, then shower and dress? Meanwhile, the under representation of employed persons is probably contributing to the supposed drop in morning drive listening.

To be sure, all of these problems are fixable. In fact, there is real world evidence that Arbitron can fix them if it chooses. In Houston, Arbitron made the needed investments in an addressed-based sample and in-person recruiting, and bolstered its Spanish-language support staff. As a result, the PPM system's data became more reliable and Houston received MRC accreditation.

One would think that what's good enough for Houston would be good enough for the rest of America. Unfortunately, to date Arbitron's pattern is to avoid making these sorts of investments in the quality of its data. The MRC's repeated decision not to grant accreditation is the surest evidence that this concern is not just "sour grapes" from broadcasters who have seen their ratings negatively impacted, but rather is a substantive concern shared by the industry's designated ratings watchdog.

Yet the rollout of the PPM continues. For Arbitron to continue making the unaccredited PPM system the currency in market after market is akin to a teenager taking an SUV out on the highway having only promised at some point in the future to get a driver's license. It is manifestly unsafe for all.

That is, perhaps, the best way to think about the PPM system: it is unsafe.

It is unsafe for broadcasters, because our ability to generate advertising revenue -- the sole pillar of our existing business model -- is now dependant on a ratings system that may or may not capture our listeners depending on such arbitrary and disparate factors as whether or not our listeners have a landline telephone, whether or not they are comfortable carrying around a tracking device for two years and whether or not they are open to being recruited to such a sample on the basis of a random phone call.

It is unsafe for marketers, because now they must allocate hundreds of millions of advertising dollars on the basis of ratings data that does not accurately capture the listening behavior of consumers. This is not just true of minority broadcasters -- our stations are simply the ones tending to receive less revenue as our listeners are undercounted falsely. In other words, marketers are not getting what they think they are paying for. Why should any marketer accept inaccurate data to make buying decisions?

Above all, the system is unsafe for the listening public. Even in this age of media fragmentation, free over-the-air radio remains fundamentally important to tens of millions of Americans. This value is perhaps even greater among African American and Hispanic communities, for whom the local radio station is not just a source of entertainment, but is a center of the community and a lifeline to critical news and information.

*Written Testimony of Cecil Shagrin
Executive Vice President Corporate Research Division
Univision Communications, Inc*

And so this is the grim reality of today's radio marketplace -- an unsafe ratings system, careening through the industry, disserving listeners, doing untold damage to minority broadcasters, and threatening to undermine the core ideal of a diverse radio dial.

In order to rectify this situation, it is essential that Arbitron reaffirm its commitment to the MRC system. MRC accreditation is the only available method for ensuring that ratings systems meet the minimum standards for fairness and reliability that listeners and the industry deserve.

Meanwhile, Arbitron must commit to refrain from making a new ratings system currency in a market unless and until MRC has provided it accreditation in that market. Until such time, Arbitron can and should continue to introduce new systems. Innovation need not be slowed or deterred by this process. But in order to preserve the safety of the marketplace Arbitron must maintain the previous diary-based system in parallel to the new electronic system until such time as the MRC provides accreditation. That way, the industry can continue to draw upon tried and true data sources while the new system is tested and refined in the real world.

These changes must be made with haste. With each day that passes the ability of minority broadcasters to continue meeting the needs of our communities is threatened. The time for action is now.

Mr. Chairman, I appreciate the opportunity to share these views with you today and I would be pleased to answer any questions you or other members of the Committee may have.

Chairman TOWNS. Thank you very much for your testimony.
Mr. Honig.

STATEMENT OF DAVID HONIG

Mr. HONIG. Chairman Towns, Ranking Member Issa and members of the committee, my name is David Honig. I am the president and executive director of the Minority Media and Telecommunications Council [MMTC].

MMTC is a member of the PPM Coalition which consists of the Spanish Radio Association, Univision Communications, Inc., Spanish Broadcasting System, Untravision Communications Corp., the National Association of Black-Owned Broadcasters, ICBC Broadcast Holdings, Border Media Partners, the Association of Hispanic Advertising Agencies, KJLH Los Angeles and of course, MMTC. I appreciate this opportunity to address the committee as it considers the effects of Arbitron's PPM on diversity in radio broadcasting.

The Supreme Court has noted that "It has long been a basic tenet of national communications policy that the widest dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." Diversity means acknowledging, understanding, accepting, valuing, and celebrating differences among people with respect to age, class, ethnicity, gender, and race.

True diversity in broadcast ownership will result in more diverse speech, more choices for listeners, and more owners who are responsive to their local communities and serve the public interest. Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community, but also enriches and educates the non-minority audience. It enhances the diversified programming which is a key objective of the Communications Act and the first amendment.

For example, two studies have clearly demonstrated that minority-oriented media produce a positive and measurable impact on the communities they serve. A 2005 study found that Black-targeted newspapers and radio stations function as mobilizing channels for political participation among Black voters. Controlling for the size of the Black population in the market, the availability of Black-targeted media had an elevating effect on Black voter participation.

A 2006 study determined that voter turnout among Hispanic voters was 5 to 10 percentage points higher in areas with Spanish language local news than in areas without that service. Thus, communications services to diverse audiences benefit our democracy as a whole in our continuing quest for opportunity and equality.

The U.S. Court of Appeals for the D.C. Circuit has recognized that public policy places primary reliance with respect to diversification of content on media ownership, which has historically proven to be significantly influential with respect to editorial comment and the presentation of the news.

This has proven to be true in recent months as minority audiences have been under-counted by PPM rating services. All commercial broadcasters depend upon advertising for their livelihood and audience ratings are the sole method of determining the size of audiences that are available to listen to radio advertising mes-

sages. In the top 50 markets, Arbitron is the monopoly provider of radio audience measurement services. When minority audiences are under-counted, advertising dollars shrink or disappear altogether for those minority-targeted stations.

The simplest solution for a standard, profit-driven broadcaster would be to switch to a mainstream, cookie-cutter format to program for the ratings. It has been the minority-owned broadcasters who have valiantly held to the task of serving their local minority communities with targeted formats.

True dedication alone will not pay the electric bill and make payroll. Without sure and quick relief, even the minority-owned stations will struggle to survive. Every time any one of these extraordinary radio voices fails, the fabric of our society becomes a bit more tattered.

The obvious solution is for Arbitron to repair its broken methodology and provide the accurate survey data that the broadcasting and advertising industries have a right to expect. If Arbitron is not providing a product that meets legitimate expectations for accuracy and reliability, then the company should not be in the position to bind minority-targeted radio stations to grossly expensive contracts for years in the future.

At the very least, these broadcasters should have the freedom to explore other options and seek a more responsible audience measurement service that cares about its mission. In the absence of this minimal level of relief, the committee should encourage the Federal Communications Commission to exercise its authority under Section 403 of the Communications Act and institute a full inquiry into Arbitron's practices and their impact on diversity and public welfare.

Thank you very much.

[The prepared statement of Mr. Honig follows:]

**Before the
House Committee on Oversight and Government Reform
December 2, 2009**

Written Testimony of David Honig, President and Executive Director, Minority Media and Telecommunications Council

Chairman Towns and Members of the Committee, my name is David Honig. I am President and Executive Director of the Minority Media and Telecommunications Council (“MMTC”), a national nonprofit organization dedicated to promoting and preserving equal opportunity and civil rights in the mass media and telecommunications industries. I appreciate this opportunity to address the Committee as it considers the effect of Arbitron’s Portable People Meter (“PPM”) on diversity in radio broadcasting.

The Supreme Court has noted that “It has long been a basic tenet of national communications policy that the widest dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.”¹ Diversity means acknowledging, understanding, accepting, valuing, and celebrating differences among people with respect to age, class, ethnicity, gender, and race.² True diversity in broadcast ownership will result in more diverse speech, more choices for listeners, and more owners who are responsive to their local communities and serve the public interest. Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community, but also enriches and educates the non-minority audience. It enhances the diversified programming which is a key objective of the Communications Act and the First Amendment.³

¹ Turner Broadcasting System v. FCC, 512 U.S. 622, 663-64 (1994).

² See Esty, Katharine, Richard Griffin, and Marcie Schorr-Hirsh (1995) *Workplace Diversity*.

³ Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 FCC 2d 979, 981 (1978).

For example, two studies have clearly demonstrated that minority-oriented media produce a positive and measurable impact on the communities they serve. A 2005 study found that Black-targeted newspapers and radio stations function as mobilizing channels for political participation among Black voters. Controlling for the size of the Black population in the market, the availability of Black-targeted media had an elevating effect on Black voter participation.⁴ A 2006 study determined that voter turnout among Hispanic voters was 5 to 10 percentage points higher in areas with Spanish-language local news than in areas without that service.⁵ Thus, communications services to diverse audiences benefit our democracy as a whole in our continuing quest for opportunity and equality.

The U.S. Court of Appeals for the D.C. Circuit has recognized that public policy places primary reliance with respect to diversification of content on media ownership, which has historically proven to be significantly influential with respect to editorial comment and the presentation of the news.⁶ This has proven to be true in recent months as minority audiences have been undercounted by Arbitron's Personal People Meter ratings services. All commercial broadcasters depend upon advertising for their livelihood. Audience ratings are the sole method of determining the size of audiences that are available to listen to radio advertising messages. In the top 50 markets, Arbitron is the monopoly provider of radio audience measurement services. When minority audiences are undercounted, advertising dollars shrink or disappear altogether for

⁴ Oberholzer-Gee, F. and Waldfogel, J. (2005, April). "Strength in numbers: Group size and political mobilization." *Journal of Law and Economics* 48, 73-91 (cited in comments to the FCC in MB Docket No. 09-182 by the Howard University Media Group, November 19, 2009).

⁵ Oberholzer-Gee, F. and Waldfogel, J. (2006). "Media Markets and Localism: Does Local News *en Español* Boost Hispanic Voter Turnout?" (Working Paper 12317) Cambridge, MA; National Bureau of Economic Research. Retrieved August 26, 2006, from <http://www.nber.org/papers/w12317> <<http://www.nber.org/papers/w12317>> (cited in comments to the FCC in MB Docket No. 09-182 by the Howard University Media Group, November 19, 2009).

⁶ TV9 Inc. v. FCC, 495 F.2d 929 (D.C. Cir. 1974) *cert. denied*, 419 U.S. 986 (1974).

those minority-targeted stations. The simplest solution for a standard, profit-driven broadcaster would be to switch to a mainstream, cookie-cutter format; to program to the ratings. It has been the minority-owned broadcasters who have valiantly held to the task of serving their local minority communities with targeted formats. But true dedication alone will not pay the electric bill and make payroll. Without sure and quick relief, even the minority-owned stations will struggle to survive. And every time any one of these extraordinary radio voices fails, the fabric of our society becomes a bit more tattered.

In market after market, where Arbitron introduces its PPM survey methodology, Black and Hispanic targeted stations disproportionately lose listeners. The cause is clear: Arbitron under-samples minority audience members in its PPM panels. The company knows how to conduct surveys correctly and has done so in Houston, but it takes time and money which Arbitron is not willing to spend, being more interested in the higher fees that it can charge for PPM surveys. Doing the surveys right, in a manner that fairly represents all audience segments and qualifies for accreditation by the Media Rating Council, represents additional costs and no additional fees. This is a compelling case that involves First Amendment considerations and racial and ethnic discrimination. Without having to ascertain Arbitron's actual intent or motive – other than maximizing its profits – the sheer arbitrary quality of the company's thoughtlessness has been as disastrous and unfair to private rights and the public interest as the perversity of a willful scheme.⁷

Additionally, PPM surveys fail to provide any measure to distinguish between purely passive exposure to a radio station and real involvement with it. The PPM meter gives equal credit to an overheard radio station in a doctor's office and one deliberately and attentively

⁷ See Hawkins v. Town of Shaw, Mississippi, 437 F.2d 1286 (5th Cir. 1971).

followed and enjoyed. Because mass-format stations are more likely to be overheard in office and shopping settings than are minority-formatted stations, this represents another unfair disadvantage to specialized minority media. When a diary panelist is asked to list the stations to which he or she listens, the response will not include stations encountered accidentally, but only those which made a real impression on the listener. This qualitative factor is completely absent in the PPM survey and the results are less reliable for it.

The obvious solution is for Arbitron to repair its broken methodology and provide the accurate survey data that the broadcasting and advertising industries have a right to expect. If Arbitron is not providing a product that meets legitimate expectations for accuracy and reliability, then the company should not be in a position to bind minority-targeted radio stations to grossly expensive contracts for years into the future. At the very least, these broadcasters should have the freedom to explore other options and seek a more responsible audience measurement service that cares about its mission. In the absence of this minimal level of relief, the Committee should encourage the Federal Communications Commission to exercise its authority under Section 403 of the Communications Act and institute a full inquiry into Arbitron's practices and their impact on diversity and the public welfare.

Chairman TOWNS. Thank you very much.

Before we start our questioning, I would like to recognize in the audience, Commissioner Clyburn of the FCC. Thank you so much for coming.

Let me begin with you, Mr. Skarzynski. In a letter to this committee in October, Arbitron represented that it is committed to the Media Rating Council accreditation process. Do you agree that the MRC standards and its codes of conduct ensure fair, accurate, and reliable rating data? Is it fair and reliable rating data?

Mr. SKARZYNSKI. Mr. Chairman, Arbitron is committed to the MRC process and we believe that the MRC process does yield the results that you have just described.

Chairman TOWNS. If that is the case, why is it that you have only been approved in 2 out of the 33? Why would you continue to roll out if you really respect that process and feel that it is important? Why would you continue to do that?

Mr. SKARZYNSKI. Mr. Chairman, Arbitron follows the rules of the MRC process. The MRC process does not require that an audience measurement service provider obtain accreditation prior to commercialization. The process to obtain accreditation can take many, many years and this is the industry practice that audience measurement service providers not only in radio, but in television, Internet, cable TV, and print, while striving to get accreditation, can commercialize a market and a service. We are following the rules.

The important step before commercialization is that an audit is conducted, as Mr. Ivie has described, by a third party. In the case of Arbitron, Ernst & Young is the third-party auditor who audits our markets prior to commercialization, and the audit process is a very lengthy, thorough, and detailed process.

I can assure you, Mr. Chairman, that as CEO of Arbitron, if there was a show stopper that came up in the context of the audit, we would not commercialize a market. We are following the rules. Accreditation can take many, many years.

Nielsen, in its TV audience measurement, launched electronic measurement in 2002 and they have obtained probably 10 or 11 accredited markets at this point in time and are still seeking accreditation. So this is the industry practice.

Chairman TOWNS. Mr. Skarzynski, let's face it, we are talking about 33 markets and you only have approval in 2. I could see may be one or two over and you are still working on it, but to me that seems like you are just totally ignoring and just doing whatever you want to do. There is a clear indication here.

Let me ask you, Mr. Ivie, what are the main reasons that the MRC has not granted accreditation to Arbitron in these 31 markets?

Mr. IVIE. What are the reasons, is that the question, Mr. Chairman?

Chairman TOWNS. Yes, that is the question.

Mr. IVIE. First of all, if I could spend a second because Mr. Skarzynski raised a rather complex issue, it is true that the MRC is not a government organization. We have no authority and we were not designed to prevent a commercial enterprise from rolling out a product. We do not have that type of authority.

However, we do have a voluntary code of conduct. That voluntary code of conduct says that at minimum, a ratings service should have an audit before it commercializes a product and have that exposed to our Audit Committee so that we can decide whether it should be accredited or not because that is what the marketplace relies on.

However, the voluntary code of conduct goes on to make other recommendations. The voluntary code of conduct says that we would prefer that a ratings service does not implement a product until it is accredited. We also say that we would prefer that a ratings service does not discontinue an accredited service before they get accreditation of a new product. Those preferences are stated, but you should know that because of the way we are structured as an organization, we do not enforce that and we have been reviewed by the Department of Justice and the FTC.

Mr. Skarzynski referenced Nielsen. They were rolling out products without getting accreditation. That led to two Senate hearings on the matter similar to this where customers were saying, “why is Nielsen rolling out these products,” “why didn’t the MRC accredit it” and Senate hearings happened.

This causes controversy. That is why we have those recommendations in our voluntary code, but we cannot enforce that because we are not a government organization. I am not asking you to set that power to us but I am trying to explain the facts. We state our preferences, we believe very strongly that an audit needs to be conducted and a marketplace should know whether accreditation is granted or not for those 30 markets so that they can either rely on that or not.

Many, many customers look to accreditation as kind of like the “Good Housekeeping seal.” When that is not present, they know it is not present for a reason. As Ms. Shagrin said, we don’t do that arbitrarily.

We have made numerous recommendations to Arbitron.

Chairman TOWNS. What was their response?

Mr. IVIE. Arbitron has implemented numerous recommendations, we still have some on the table. We are kind of getting to a stage where some of these recommendations are very tough. If you put yourself, Mr. Chairman, in the position of the panelists for PPM, you have to wear this PPM device. You not only have to wear it when you are here, but you have to wear it at home, you have to wear it when you wake up in the morning, you have to carry it with you when you go to the bathroom, when you take a shower. When you come home from work, you carry that methodology with you, the meter with you. Those are human conditions and human cooperation that are difficult to gather.

We made a lot of recommendations to Arbitron. We have pages and pages of recommendations in a letter. Arbitron has implemented many of those. Some of them have worked, some of them have not worked, and some of the more expensive ones like sending people out to train householders on a wider basis, in person, on how to use the meter—having in person contact to explain to people why it is important—are very costly.

Arbitron is trying to balance the cost implications and the improvement implications in these services. I cannot speak for

Arbitron on the matter, but I can tell you it is a very complex situation. We think we know a lot about what it takes to improve and those recommendations are on the table. They are about in-person contact, more intense installation and training for the panelists, making sure that geographically the panel is representative.

There are a lot of issues on the table with us and Arbitron. You have subpoenaed our records and you have a lot of that information. Some of them are very confidential. I do not know because of the trade aspects whether we should go into that much detail. I hope I answered your question.

Chairman TOWNS. Mr. Skarzynski, why are you sort of resisting the suggestions and recommendations and instead of making the changes, you'd rather roll out? I am afraid you are going to kill some of these radio stations if you continue to do this and not respond. Some of them will be gone by the time many of these things might be dealt with at all.

Mr. SKARZYNSKI. Mr. Chairman, we have a very active program to improve our service based on the recommendations that we have received not only from our customers but also from Mr. Ivie and the MRC staff. We do not feel that the service is flawed. We actually feel that for nine markets, including the New York market, our performance in 2009 is very, very strong and we feel we are performing at a level that deserves MRC accreditation.

I believe we have supplied to the committee the actual reports that we submitted to the MRC last month to comment on our performance and to show the trends and where we are in particular markets, including New York.

We welcome the suggestions for improvements. We are making these improvements. Mr. Ivie commented on the training activities. We have a very extensive training program to bring in and orient new panelists. We have local market coaches who go out into the field and help with panelists. As a matter of fact, two Saturdays ago, I spent the afternoon with one of our local market coaches in Prince Georges County here in Maryland and worked with the panelists, this particular household to help them through the process.

We are very active in trying to get all of our panelists to participate at a performance level and we feel, certainly in the case of New York and these eight other markets, that we are performing at a level that would earn us MRC accreditation.

Chairman TOWNS. Let me tell you what my problem is. My problem is I see some of these recommendations were made 2 years ago. I am also looking at the fact there was one station in New York in particular that was rated No. 1 and now that station is No. 15, without moving anyplace, going anyplace, doing anything. Doesn't that bother you? You would rather continue to roll out with the fact you have not moved to correct some of these recommendations over the past 2 years?

Mr. SKARZYNSKI. With all due respect, Mr. Chairman, we have implemented many of these recommendations. We have a program of over 60 initiatives that we have worked on and employed across all of our PPM markets, so I do not think it is correct to say that we are not acting on these recommendations, that we are not making these improvements. I would beg to differ, sir.

Chairman TOWNS. Mr. Honig.

Mr. HONIG. Mr. Chairman, I am little disturbed and disappointed by the things that Mr. Skarzynski has said that I think cut right to the heart of what this is about.

One was that if there were some problems identified before going to currency, that was a showstopper—the company would not go to currency. Let us look at what the problem was that was not enough to go to currency—30, 40, 50, 60 percent declines in ratings for some stations. If there had been a new technology that had that impact on voter participation, on school segregation, on equal employment, on fair housing, or on environmental protection, that would be a showstopper by any standard. It would be a national scandal. Because this affects democracy so deeply, it is just as much of a scandal.

The other thing that disturbed me, and I appreciate the good intentions, is that the company is going to begin to develop an engagement index. The difficulty is that has been a recommendation we have been awaiting for 3 years and it is not that difficult. There comes a time when you cannot rely alone on promises and have to begin to undertake some oversight based on past history.

Chairman TOWNS. Thank you.

Ms. Shagrin.

Ms. SHAGRIN. I want to reinforce what Mr. Honig said in terms of showstoppers. I think a major issue here is the fact that most of the problems we are seeing today we saw in the early audits, in the markets that were originally rolled out. We brought those both as individual customers and through the MRC to Arbitron and said you have some basic problems, we have some basic concerns. Had they stopped then and addressed those, we probably would not have 33 markets out there that have identical flaws.

The problem today is now there are 33 that need fixing or 31 that need fixing and it gets much, much more difficult and more costly to fix. Unless there is some way, some stoppage and some way to go back and fix the basic flaws, we will continue to live with this until there is no diversity in radio.

Chairman TOWNS. The gentlewoman from California?

Ms. CHU. Thank you, Mr. Chairman.

Mr. Skarzynski, according to the PPM Coalition, Arbitron's flawed methodology and the PPM has been an issue for the past 6 years. In the meantime, minority radio stations are experiencing a precipitous drop in their ratings and a corresponding loss in advertising revenues.

I have learned that companies like Univision, whose main market is the Spanish-speaking population, has decided to opt out of the PPM measurement system because it no longer makes business sense and as a result, there is no other measurement options.

There are other drastic situations such as the 70 percent decline in radio station ratings for certain stations and one station going from a ranking of 1 to 21. In fact, that station no longer exists on the air waves. This seems to me like a very drastic situation and it has been going on for at least 6 years. Yet, from what I hear from you, it seems you see this as no problem. You see the situation as not a problem.

I want to know do you even think of this as a problem and if so, is your company taking any steps to rectify the situation?

Mr. SKARZYNSKI. Congresswoman, we began the roll out of PPM just a few years ago, not 6 years ago. The transition from the pen and paper diary—I am holding up a copy of the diary—to the electronic form of measurement was something that was desired by the radio industry. We worked with the radio industry to develop the PPM technology. We are very sensitive to the concerns of our customers.

The issue of a loss in ratings is something that has occurred in the transition from the pen and paper diary to the PPM. It has affected many broadcasters, not simply urban or Hispanic broadcasters because we learned in going from diary to PPM, diaries based on a recall factor. I fill out this diary once a week, perhaps I do it at the end of the week, and I try to recall what stations I listened to. I have a chart that captures listening. I do not know if it is possible to put the PPM captures listening exposure chart on the screen.

In this example, a Black male filled out the diary and said here are the two radio stations that I listen to, I listened to these two stations and listened to them for 8 hours a day. Once the PPM audience measurement service had been established, it was found this listener did listen to those two stations but actually listened to four or five other stations and did not listen to radio 8 hours a day.

What we do is measure exposure to radio and the fact that in the diary, because of the great loyalty of radio listeners, the diary keeper was saying I listened to just these two but in fact you see a very different result. That is a true measure of how the listener is exposed to radio as opposed to just a recall factor.

I think this is an important point to make, that it has affected a variety of different broadcasters and a variety of different formats—talk radio, Christian radio, Hispanic radio, urban radio. The talk radio host, Sean Hannity had a 60 percent decline when we moved from diary to PPM and it was in this experience that while there is a loyal base of listeners that the listeners were doing more than listening just to Sean Hannity.

In the exposure to radio that you get in PPM, you see there is a greater selection, a greater number of radio stations that a listener is covering and that they are actually not listening to radio 8 hours a day.

Ms. CHU. So I presume you are saying there is no problem?

Mr. SKARZYNSKI. We do not believe that our methodology or our technology has flaws. We think we have a solid methodology and a solid technology. We think that even as you look at the performance of panelists by different demographics, that the performance of panelists—urban, African-American and Hispanic panelists—is at the same level in our panel as those of any other demographic.

Ms. CHU. Actually, I do see one big problem which has to do with the lack of Spanish-speaking participants in your PPM ratings panels. In fact, I have a very large Hispanic population in my district in California and I think this is a very serious deficit. What efforts have you made to ensure that there are more Spanish-speaking participants so that there is a more accurate rating?

Mr. SKARZYNSKI. Congresswoman, we take great care in standing up a panel that matches the demographics of the market. We start with the census data that are updated every year by a firm called

Claritas, and every year in the month of October we are updating the panel to reflect any changes in the demographics.

That is to say for a given market, we would have as many males percentage-wise as females as there are in the census data updated annually by Claritas, as many white, African-American, and Hispanic listeners percentage-wise as there are in the market and then we look at it in several age groups—6 to 17, 18 to 34, 35 to 44, 45 to 55, 55 and older. We do our work very, very carefully to select a panel that is representative of the market that we are serving.

In terms of recruitment of Hispanic panelists or prospective Hispanic panelists, this was an improvement recommendation that actually came from our customers and also from the MRC, we are recruiting the Hispanic panelist prospect with a Spanish speaker.

Chairman TOWNS. I yield 1 additional minute so that Mr. Ivie can respond. I give the Gentlewoman an additional minute.

Mr. IVIE. I referred in my oral testimony to some charts that were attached to our written testimony and Scott made some copies of them to put on an overhead. Exhibit F, if you pull up Atlanta, which is the first market, I know the chart is small but basically, people have been talking about specifics, what specifically are the issues. This is an illustration of one issue.

This shows young panelists, panelists 18 to 34 year-olds in Atlanta, and how they cooperated with the PPM device over time. On the average day, how many young panelists carried and had their data accepted by Arbitron for processing in the rating. As you see in January, that number was around 70 for the red line which is females and a little above 70 for the blue line which was males. We look at those and say those are nearing reasonableness. Keep in mind that means 30 percent almost of the people do not carry their PPM or do not have their data processed.

One of the things we noticed during 2009 was that rate went down. You can see the decline in that chart. Scott, if you would put up the next market in alphabetical order which is Austin, you see those numbers declined. By September those were at 65 which means 35 percent of the panelists of that age group do not comply with that methodology on the average day and so on.

If Scott could put up Chicago, the next chart. Take a look at the trend in Chicago and then further into the packet is New York, you could look at New York and see that the trend at the end of New York is not going down, it is going up, an important point.

Arbitron took some action and put in more procedures to interact with panelists in New York during that timeframe where those numbers are going up, more in-person interaction, we believe. Those are parts of the recommendations that the MRC is trying to push Arbitron to make. They did not make that improvement in the other markets.

I attached Exhibit G to the testimony. They started to make some of those improvements in October. Scott, if you put up Atlanta for October, remember that chart was all the way down by September. You see that now the end of that chart is going up, so more panelists are beginning to comply.

This is a very complex issue. We are trying to improve the performance of this service and Arbitron is trying to cooperate and

they are implementing some of our recommendations and some of them they are looking at and saying they are too expensive or whatever and they are trying to make improvements.

The MRC is not going to accredit this methodology until issues like this reach a level that we believe, with a collective voting of the MRC membership, are appropriate. We do not have written standards for what that is because every meter technology is different and the diary is different. This issue is very visible. This is just males 18 to 34 and females 18 to 34; there are other things that are more granular about the technology and things where we are in dialog with Arbitron but this is an illustration of a key issue.

You wanted specifics. This is very specific. You saw declines during 2009 which cause us pause when we are going to accredit this service. How do we know what people do when they do not carry the PPM? What do they do? What do they listen to on the radio? Are they exposed to radio, are they not? Are they exposed the same as when they do carry the PPM? Arbitron has even done studies of that but they are very small. We are wrestling with these issues.

Chairman TOWNS. Thank you.

Mr. SKARZYNSKI. Mr. Chairman, may I make a comment on Mr. Ivie's charts?

Chairman TOWNS. Let me yield to the gentlewoman from Washington, DC.

Ms. NORTON. Thank you, Mr. Chairman. I thank you for this hearing.

Because causality is always a difficult issue under the best of circumstances, I take it the panel would agree that with the growth in people of color in our country, that radio should see a growth overall in listeners from people of color. Could we agree on that?

Mr. SKARZYNSKI. Yes, I would, Congresswoman.

Ms. NORTON. Mr. Skarzynski, I have to tell you I am erudite and I understand what you are trying to do. Indeed, I was impressed with the series of graphs involving one man. I should have thought that anybody getting back a diary that said they did anything 8 hours a day would have understood that meant they were not doing that continually.

I am impressed by the difference in what you capture. I would be much more impressed with seeing that captured with a sample rather than one man. I can pick out one man any day of the week and prove anything you would like. I understand what you are getting at but until you show me a sample that shows that kind of pattern, I am not sure I am convinced.

What is at issue here may be the life and death of one of the most viable industries for people of color. Obviously, there are going to be some concerns in the Congress about that, particularly about these fluctuations.

I am super sensitive to what is happening to every business of every kind in the United States today. The only entity able to write a check today is the U.S. Government and that is because we do not have to have the money in the bank.

I understand that every industry is affected and yet it would seem to me that there is an obligation on the part of the Congress to try to ask the question that I asked of you, Mr. Skarzynski. Can you say with any certainty that PPM is not a significant ingredient

in what is happening to minority-owned stations and that the rest of it must be something else like the recession? Can you say that with any certainty?

Mr. SKARZYNSKI. Congresswoman, we do not believe that PPM is the root cause.

Ms. NORTON. In what is that belief grounded? On what is it based?

Mr. SKARZYNSKI. The radio industry is suffering right now, as you noted, Congresswoman, with the general economy. There has been a decline in revenue for all broadcasters.

Ms. NORTON. Are you seeing these declines equally among stations that service majority populations and minority populations, no difference whatsoever?

Mr. SKARZYNSKI. There have been, in terms of revenue declines, the same revenue declines percentage-wise for the general market as has been the case for Hispanic and urban broadcasters.

Ms. NORTON. Would you submit whatever you are basing that on? You say the general market? That would include minority stations. I am asking about stations. I can name some in the District of Columbia that target certain areas which we know to be largely white as opposed to stations which target areas where the population is minority. Have you that kind of research on which you would base what you have just said to this committee?

Mr. SKARZYNSKI. We do, Congresswoman. When I was referring to the general market, that is a term in the radio industry, general meaning not stations that are targeted at an urban or Hispanic broadcaster. I believe Mr. Liggins of Radio One is going to speak in the next segment of the panel and he can share with you the specific details.

Ms. NORTON. I have read Mr. Liggins' testimony. I know him and I respect him. Indeed, Radio One is located in my district and therefore, I was very, very interested in his testimony. Of course Mr. Liggins sits at the helm of an empire, not simply a station. I admire what he and Kathy Hughes have done, love them dearly.

Are you, in fact, telling this committee, that all the other minority stations have to do is do what Radio One did, alter their programming and they will increase their PPM ratings? Is that your advice to stations not a part of an empire which may have been able more easily to make this change? Just do what Radio One did and you fellows are going to be all right.

Mr. SKARZYNSKI. Congresswoman, we are not in the business of advising radio broadcasters what to do and of course, the programming decisions are the decisions made by the individual broadcaster. I cited in my oral testimony that Stevie Wonder's station, KJLH in the Los Angeles area, in this particular case, the programming director of that station looked at the PPM data, which is very granular data, and made a decision to switch over to the Steve Harvey program.

Ms. NORTON. What would keep a station from simply incorporating what you say these successful stations have done? What would make a station not want to do that?

Mr. SKARZYNSKI. I am sorry, I did not hear the first part.

Ms. NORTON. What would keep a minority-owned station from doing what Radio One and the station you have just cited did? What keeps them from doing it, in your view?

Mr. SKARZYNSKI. There would be no obstacle in having them make that change.

Ms. NORTON. Do you have an answer to that, Ms. Shagrin?

Ms. SHAGRIN. I would love to answer that.

I think what keeps us from doing that is if we thought these were reliable and accurate estimates, then we would do what we do with other audience estimates and use it to make programming decisions, but given the inaccuracy of the sample and the fact that the people providing that information are not representative of Hispanics or African-Americans, we cannot make programming decisions.

When I started out in this business and I tried to explain to someone at an English language broadcast network that the differences he was seeing was because the universe was changing, he said to me, I do not care if it is right or wrong, I just want to program to the sample.

We do not believe that at Univision. We believe that we have an obligation to the 15 million Spanish radio listeners to provide them with entertainment and with information they need. We are not going to change our programming until we have samples that are representative of those listeners and then we can use that information to improve. We are not going to do it based on bad information.

Ms. NORTON. Mr. Honig, do you have a response?

Mr. HONIG. I want to cut right to this question of causation. Mr. Skarzynski correctly recognizes that this is not the only problem, the only burden facing minority radio. Those stations also are burdened by lack of access to capital, by weaker signals historically, by outdated engineering rules, by EEO non-enforcement, and by advertisers that will not consider advertising on them simply because of the race of members of the audience.

Those problems have existed for years. Notwithstanding them, as horrible as they are, stations continue to perform well in those formats until they get disrupted by PPM. You see the numbers collapse in the markets where currency has been granted and only in those markets over the last 2 years have the numbers collapsed. That is about as clear a case of causation as you can see.

It certainly is no justification for this kind of practice that there are other deficiencies. It was no justification for school segregation that there was housing segregation, for example. Nor is it an answer to say that there are some broadcasters that have managed to overcome or adjust. No one should have to adjust the heart of their business because of a flawed technology.

Chairman TOWNS. The gentlewoman's time has expired.

Let me say before I move to the gentlewoman from California, a comment was made that indicated that the majority of minority decline has been basically the same. It is my understanding that is not true. Mr. Skarzynski indicated it is basically the same when he responded to the gentlewoman from Washington, DC. Is that true?

Ms. SHAGRIN. Based on the last time I saw ratings data, that is not true. There have been declines across English language sta-

tions, urban stations, and Spanish stations but the decline for minority stations has been significantly larger than it has been for the other stations.

Ms. NORTON. Mr. Chairman, could I ask that the data Mr. Skarzynski was relying on be submitted to the chairman so that the committee can evaluate that data for itself?

Mr. SKARZYNSKI. Yes, I would be happy to provide the data.

Chairman TOWNS. Without objection, we will receive it.

The gentlewoman from California.

Ms. WATSON. Thank you, Mr. Chairman, for holding this hearing. Just an observation—where is the other side of this committee?

Chairman TOWNS. Good observation.

Ms. WATSON. The subject matter probably is of little interest. Just an observation.

I am listening very intently because I represent the area where KJLH's listeners are. That is Stevie Wonder's station. Mr. Skarzynski, I understand that you look at census data to weigh your numbers to account for any under- or over-represented demographic groups. My problem is that the census has a historical tendency to under-count youth, low-income, and minority households. I sit on the Census Subcommittee and one of the things I brought to the attention of the director of the census is that in certain areas, there is always an under-count. Because of that under-count, we are denied the funds that should come based on certain demographics.

Do you account for this historical under-count of the census when compiling and analyzing your data? If so, how do you do it?

Mr. SKARZYNSKI. Congresswoman, we look at census data and then we update it each year during the month of October with data from Claritas. The way that we would focus on the total market to get a representative sample would be to use both the census data and the Claritas data.

Ms. WATSON. What is the difference?

Mr. SKARZYNSKI. The census data you know about since you care for it here in the Congress. The Claritas data is an update from a third party, private firm, not the Government, that looks at census data and any possible shifts that occur within a given year.

To go after a representative sample and to care for particularly African-American and Hispanic listeners, we focus on what we call high-density areas and try to get as representative a group of African-American and Hispanic listeners for the total market within certain high-density areas.

Ms. WATSON. Let me just say this. That is one of the problems. Yes, there is high density but they don't get counted. I am a witness of that. I live in the community and I can tell you that because of the fear some of our non-English speaking citizens or people have, they don't give an accurate count, so I usually call in the census people and tell them how to go about the count. You go out on a Sunday after church services. You go to the parks, you go to the parking lot, you go above the liquor stores and cleaners, and you can get a better indication. We are historically under-counted and it hurts us.

You mentioned KJLH as a success story. It is not. I was so disappointed that the people I usually interview with are now gone

and they have gone to syndication. So we are not really getting that information to this broad listening audience out of the community that KJLH served. It is syndicated, so the little peculiarities that exist in the community are not really identified through interviews from the representatives such as those people at the county level, at the city level, at the State level, and at the Federal level. That is one of my problems.

I don't want to be that critical of the use of the PPM and we find it is not focused on the underlying technology but on the method used to recruit the people who have their radio habits measured. You stated that Arbitron plans to increase the sample size by 10 percent beginning in 2010, but I worry this is insufficient because since the introduction of the PPM, the panels have become 66 percent smaller.

My question is, why did Arbitron reduce their panel size by 66 percent with the introduction of the PPM?

Mr. SKARZYNSKI. Congresswoman, when we moved from the diary to the PPM, we had, in any given market, a paper and pen diary and we would issue this for 2 weeks in the year or 4 weeks in the year, so in the larger markets, 4 weeks a year of data were the data for the diary keepers.

When we moved to PPM, we have 365 days a year, 52 weeks a year, of data and the data that we would have accumulated from the diary versus the PPM is a multiplier of probably eight, an increase of eight to get the data and the timely and granular data minute by minute what are you listening to as between PPM and diary.

In making that migration or transition from the pen and paper diary to PPM, we reduced our panel size on a ratio of 3 to 1 and we did that and studied what Nielsen had done when they went from their pen and paper television diary to their electronic form of measurement. They actually went from 4 to 1 in terms of reduction. So we made this reduction and we did it because we were trying to maximize the use of days of an individual person that we are recording for 52 weeks a year.

Ms. WATSON. Mr. Chairman, if you could yield 1 more minute, I just wanted to see what some of the other panelists might be able to suggest as to how we can balance the need to cut costs with the responsibility to provide a sample size that is statistically reliable. Maybe some of the rest of you can give some input to this.

Chairman TOWNS. The gentlelady is yielded 1 additional minute.

Ms. WATSON. Thank you.

Ms. SHAGRIN. First of all, I would like to comment on your earlier comments about representative samples because my concern and what I believe is part of the problem and why we are here is that we, the customers, have talked, have sat in meetings and we have talked to Mr. Skarzynski and other folks at Arbitron but they aren't listening.

The root cause and the main problem that you touched on is that the samples they are using are not representative. They may tell you, yes, they have enough PPM carriers in your district, but are those carriers representative of the people who actually live in your district because how many of the people you know live in your dis-

strict would accept carrying a meter for 2 years on the basis of getting a telephone call asking them to do so.

The people who live in your area, the people who are listening to urban radio, who are listening to Spanish radio, are among the groups that are the hardest to get to cooperate. Because they are so hard to get to cooperate, you can't just call them on the phone and ask them to do it. You might be able to call them and ask them to fill this out for a week. You can't call them and ask them to carry this around for 2 years. It is a very different task.

The people who do agree to do it are less representative and not representative of those listeners that are listening to urban radio and listening to Spanish radio. Therefore, they are not represented. You get the older members of those minority groups; you don't get the younger members of those minority groups. All the waiting in the world can't adjust for a bad sample.

Ms. WATSON. I just have to comment and I will yield back that minute, part of it, but our kids are going around with their iPhones and their cell phones and so on. They are certainly not going to carry that meter when they could be looking at their other pieces of equipment. It creates a problem for us in the community.

I thank you for yielding me extra time.

Chairman TOWNS. Thank you.

Now we yield 5 minutes to the gentleman from Virginia, Congressman Connolly.

Mr. CONNOLLY. I thank the chairman and thank the panel for being here.

Ms. SHAGRIN and perhaps others on the panel, to what extent are some of the problems caused here by the fact that, for good or ill, Arbitron is a monopoly?

Ms. SHAGRIN. I think there are a lot of people who would make other choices. I think there are other people who aren't in this room or represented by anyone on any of the panels that would make other choices. We are not the only ones that are aware of the failings of the current ratings system. Again, it is not the technology I am talking about. It is sample. It is getting them to agree to be in the sample and then provide usable data on a regular basis.

Mr. CONNOLLY. So the technology is fine?

Ms. SHAGRIN. I don't know. I haven't seen you work with a good sample but I am assuming that it does measure radio.

Mr. CONNOLLY. OK, it is the sample.

Mr. IVIE, would you concur?

Mr. IVIE. I would phrase that a little differently. I think what is important to remember, and Ms. Shagrin said it initially, is when you approach someone to carry this device, a certain amount of them agree to carry it and a certain amount of them don't. The more that agree to carry it out of the original sample, the better the sample.

Mr. CONNOLLY. Let me ask you a question about that, following up on the comments you and Ms. Shagrin have made. What percentage of people who agree initially actually end up dropping out?

Mr. IVIE. If you look at a response rate for the service which is: I approached 1,000 people to carry this device, how many of them actually agreed.

Mr. CONNOLLY. No, I am not asking that question. Of those who agreed, what is the drop-out rate?

Mr. IVIE. In general, across the population, it is about 25 percent.

Mr. SKARZYNSKI. Congressman, if I could answer the question.

Mr. CONNOLLY. Please, I have a limited amount of time. I was going to turn to you in a second.

Twenty-five percent is your estimate of the people on PPM who drop out?

Mr. IVIE. Right, but that is differential among different groups of the population. Younger people drop out more than older people.

Mr. CONNOLLY. Got it.

I am sorry, Mr. Skarzynski. You wanted to comment?

Mr. SKARZYNSKI. We stand up a panel for a 2-year period in a given PPM market. A panelist can serve, on average, for 12, 13, 14 months. When that panelist leaves, we replace that panelist with someone who is identical in demographic to that panelist.

Mr. CONNOLLY. Is the drop-out rate for PPM higher than the previous drop-out rate for the diary?

Mr. IVIE. We are mixing two issues.

Mr. SKARZYNSKI. It is a different methodology. The diary is only for 1 week. If you serve for the week, then you are done.

Mr. CONNOLLY. So, you are not concerned with the drop out rate being a problem?

Mr. SKARZYNSKI. We don't, in our methodology, think that figure is a bad figure.

Mr. CONNOLLY. I understand, but you have heard testimony here from your fellow panelists that part of the problem may be less the technology and more the size of the sample. If the sample size itself is too small and unrepresentative and then a fairly significant chunk of that sample drops out, your sample is even smaller and less representative is sort of where I am going.

Mr. Ivie, did you want to comment?

Mr. SKARZYNSKI. The comment I was making, Congressman, was if Ms. Shagrin was in the panel and she drops out, we are not saying that panelist goes away. We fill that seat with someone from a comparable, identical demographic.

Mr. CONNOLLY. So, you think the drop out problem is non-existent?

Mr. SKARZYNSKI. Because of the way we would make a replacement, it is not the issue.

Mr. CONNOLLY. Ms. Shagrin.

Ms. SHAGRIN. First of all, African-Americans and Hispanics drop out more than non-minority panelists. Certainly the kids and teens are so bad, I don't even want to get into that. Heaven help you if that is who you are programming to or that is who you are trying to advertise to.

The point is that if I were on the panel and I drop out, he might try to get someone else but all he knows is a phone number and some general characteristics of the household. The last time I read an audit report, you were not doing quota sampling, but you are getting close.

The point is the person they get may be female, may live in a household where they are the only person as I do, but what they choose to listen to may be completely different than what I choose

to listen to because of my ethnic background, because of my professional background. There have been extensive studies done now on non-response. The people who agree are not necessarily representative of the people who don't agree which is why I am such a strong proponent of in-person recruiting.

Mr. CONNOLLY. Mr. Ivie.

Mr. IVIE. I am just concerned that we might be mixing terminology. You can drop out of the sample permanently. In other words, you could call Arbitron and say, I no longer want to participate permanently. They call that a drop out.

What I was quoting, the 25 percent, are failures of people to carry the PPM on the average day, so they remain on the panel and then if they don't carry it today, they are still on the panel tomorrow and can either carry it or not. That is about 25 percent. That is not a drop out. That is just a failure that day to tabulate. That varies a lot of demography. Younger people drop out more than older. Young Blacks especially, young African-Americans, drop out of this panel much more than other young people.

Mr. CONNOLLY. I am going to have time for one more question if the Chair will indulge me and then I have to go.

I will start with you, Mr. Ivie. The MRC has not accredited Arbitron's PPM service in New York, Philadelphia and Houston. Why is that and could whatever problems are reflected in those markets possibly be affecting the market here in Washington, DC, which, after all, the city itself is a majority minority population surrounded with huge minority populations and intuitively it just seems hard to believe that a lot of those minority-owned broadcasting radio stations are precipitously declining?

Mr. IVIE. First of all, a clarification. We have accredited Houston and we have accredited Riverside. All the other markets are not accredited.

There are three principal reasons why the unaccredited markets aren't accredited. The first is the response rates to the service are lower than we would expect. Earlier I mentioned the 1,000 people you approach, how many people eventually say they will cooperate. The lower that proportion is, the less likely that sample is to be representative of the population, even if you replace them because you might replace them with other people you think look alike but might behave differently. It is nuance. Response rates to these services and they are in exhibits F and G of my written testimony, are lower than we would like.

The second issue is non-compliance or non-tabulation rates in general. The 25 percent rate I quoted generally had been worse than that. Arbitron has been making improvements. Those rates are still a major concern of ours that overall not enough people are having data gathered from the service.

The third, and perhaps most important, I mentioned that people who don't cooperate, don't cooperate differentially. Young, African-American adults, for example, while I showed the chart in Atlanta and Boston that showed how they look, if you looked at that chart for young African-Americans, those numbers would be even lower. Sometimes they are 60, sometimes they are 65 percent. That means that 40 percent of the people don't carry their PPM on an average day.

Automatically you have heard talk about sample sizes and how Arbitron—and this is legitimate—reduced the overall sample size from the diary because you get a lot of measurement from people so you are allowed to do that, but then if 40 percent of young African-Americans fall out of tabulation because they don't carry it, that puts even more stress on your sample. If you are relying on that target, then you are relying on only that reporting sample. That is a smaller group.

I have explained three principal issues. Those are the three key issues we are focused on getting Arbitron to improve. They are very critical. We are not going to accredit until we believe those have been improved to a sufficient degree and those samples report in a representative manner across various types of demography. We are not going to accredit until that happens.

Mr. CONNOLLY. Thank you very much.

Mr. Chairman, my time is up and I thank you for your indulgence.

I do want to say that representing the local area in the National Capital Region, Mr. Ivie has just put his finger, with the best of intentions, on the methodology can lead to results that have devastating impacts on minority-owned broadcasters and radio stations. We have already seen that here in the National Capital Region.

I thank you for holding this hearing and I look forward to working with Arbitron and others to see if we can't make sure that we are all at a certain comfort level with the data and what it means.

Thank you.

Chairman TOWNS. I thank the gentleman for his statement.

I yield 5 minutes to the gentleman from California, Ranking Member Issa.

Mr. ISSA. I thank the chairman and I apologize for having to go back and forth. We have a markup in Judiciary next door. As you know, as important as hearings are, markups are recorded.

The questions that I have I think are going to deal with accuracy but maybe with some rhetorical questions.

Ms. Shagrin, you were with Nielsen for 25 years, right?

Ms. SHAGRIN. Twenty-seven.

Mr. ISSA. Were you perfectly accurate? Were there complaints by TV stations that your ratings were skewed, inaccurate, not what they wanted? In other words, if you didn't give them the number they wanted, did they complain?

Ms. SHAGRIN. Not so much. For a long period of time, Arbitron and Nielsen were both measuring local television.

Mr. ISSA. Let us followup on that question a little bit. You called yourself a customer. Aren't you really an audited firm, not a customer in the true sense? When you choose to buy the results, you are somewhat of a customer, but realistically, aren't you simply being audited for honesty and integrity a little like a public SEC company? They pay PriceWaterhouseCoopers but in a sense, PriceWaterhouseCoopers' allegiance is to the truth, isn't that true?

Ms. SHAGRIN. That is true, but I am a customer. I work for Univision and I am a customer.

Mr. ISSA. Right, but Enron was a customer of their accounting firm and we had a national scandal because Enron got the account-

ing it wanted. Are you entitled to the accounting you want or are you entitled to the best accounting available and that's what you have to ask for, the best and most accurate numbers available? Which is it?

Ms. SHAGRIN. The best accounting available. However, sometimes there is no best accounting.

Mr. ISSA. Very true and that is exactly the followup that I want.

Mr. Skarzynski, you are not perfect, your numbers aren't perfectly accurate, isn't that true?

Mr. SKARZYNSKI. Absolutely true. I am not perfect and my numbers aren't perfect. It is a random sample.

Mr. ISSA. Even though I understand you don't release the exact amounts, you pay Blacks, Hispanics, and young people more money to carry these PPMs than you do overall. In other words, there is a skew toward the "hard to get to carry" groups, is that true?

Mr. SKARZYNSKI. We do pay a differential incentive in some markets if we are having problems getting that analyst.

Mr. ISSA. "Differential" is the term for more?

Mr. SKARZYNSKI. Correct.

Mr. ISSA. So you pay more when you believe you are not getting the level of carry that you need to get the accuracy you need, right?

Mr. SKARZYNSKI. We do on some occasions, yes.

Mr. ISSA. Was that tendency as evident when you were doing paper diaries as it is when they are carrying a completely accurate electronic device?

Mr. SKARZYNSKI. In terms of a differential response?

Mr. ISSA. Yes.

Mr. SKARZYNSKI. Yes, it was.

Mr. ISSA. So this is not a new problem, this is a problem that already existed?

Mr. SKARZYNSKI. It would have been and we do have a diary market today for the markets 43 through 303, so we do see that in the diary.

Mr. ISSA. We do have a problem, young people love to carry a cell phone but have a problem with a pager when it doesn't deliver messages to them. Perhaps if you could embed your rating system in a cell phone and hand them a cell phone, this problem would go away. If you gave someone a free cell phone for a year or two, I guarantee you would have a high carry rate with the young.

Mr. SKARZYNSKI. Congressman, that was Congresswoman Watson's suggestion to us. Actually, that is a next generation product for us that we are looking at, just that.

Mr. ISSA. As soon as you get that, Diane and I don't have to be berating you in a public hearing, right?

Mr. SKARZYNSKI. I certainly don't view it as being berated.

Mr. ISSA. Anytime you are called monopolistic at the opening, you have a little bit of a problem with the dais.

I am concerned, along with the chairman, that there is an accuracy question. I am going to close with one question and I want to be very succinct here today. Is the electronic machine, the PPM machine, in dispute as to its accuracy here today? I only want to see a yes if you are disputing the accuracy of the product. Is it reasonably fail safe?

Seeing no response, what we have is a better piece of equipment. Mr. Skarzynski, what I hear today is that your purported customer—I view the advertiser having been an advertiser—as your most important customer because I demand the accuracy in order to make good decisions with my money which ultimately I am her customer as an advertiser and that is what we are trying to achieve when we are on the other side of it.

Can you briefly tell us how does this committee have a high confidence that with an accurate piece of equipment, you are going to take care of the other problems that have today been called in doubt? Mr. Liggins is going to be up in a minute and he is a little different than this first panel. Although he will talk about the same problems, he is hopeful you are going to get there.

Would you tell us how you are going to get to the level of accuracy, knowing that the tool isn't the problem, but these other problems exist? What are you going to do in the next 12 months so you don't have to be back here again?

Mr. SKARZYNSKI. Congressman, we are improving our performance. Mr. Ivie put up some charts that talked about how we are performing at certain levels. If you were to look at Appendix B of our written testimony, we have the data for all of our markets that goes through the month of November. We are performing at a much higher level for all markets. It is based on improvements that we are making to the sample size and the sample quality that we are making across the board. We are getting these suggestions from our customers and from the MRC staff. We are committed to making our service the very best service that it can be.

Mr. ISSA. Thank you very much.

If anyone else wants, answer briefly.

Mr. HONIG. Thank you, Congressman.

First, I should have put my hand up when you asked if anyone questioned the accuracy of it because it is accurate if you are talking about measuring stations that are encountered. If what you are trying to find out is what people listen to, it isn't and can't possibly be accurate because people often encounter stations and they are not listening, not paying attention. They are not listening to the advertisements.

The other question that I think you are going to is really the heart of what we are here for which is what is the duty of care. These things are understandably relative but we have a lot of precedent on that. This is somewhat analogous to the reason why we hold surgeons to a higher standard than general practitioners.

What we have here is a company engaged in the highest level of statistical research. This isn't a sophomore class in statistics learning how to do this and you find surprisingly someone who used to teach sophomore statistics. You find grossly unrepresentative samples by race, ethnicity, and age. You find the lack of a measure of engagement such that those who command high loyalty, whether it be Black, Spanish, radio personalities, or Sean Hannity are undercounted.

Mr. ISSA. I would be happy to hear more but the chairman has limited ability to give me time and this hearing is strictly on the diaries versus the PPM, so to a great extent, we are trying to limit how, with the new tool, changes need to be made to be more accu-

rate. We can't necessarily get at the entire history of everything that is not right with this company.

Ms. Shagrin, if you have something, briefly, please.

Ms. SHAGRIN. The tool may accurately record and report what people are exposed to, but the gist of the matter is, are the people who are carrying the tool representative of U.S. America in all ways and for minorities as well as non-minorities by age? I think the answer to that question is no. The best tool in the world with a bad sample does not give you good data.

Mr. ISSA. Thank you. Thank you for a succinct answer.

Mr. Clay [presiding]. The ranking member's time has long expired.

The gentleman from Texas, Mr. Cuellar, for 5 minutes.

Mr. CUELLAR. Thank you, Mr. Chairman.

Mr. Skarzynski, taking into account that I believe Arbitron has been sued by four attorney generals, New Jersey, New York, Maryland, and Florida, taking into account that Arbitron has failed to receive accreditation from the MRC for many of the markets, taking into account that there have been issues about methodology, taking into account the testimony we have heard here and people sitting behind you, wouldn't it be better for you to listen more to your direct customers and try to implement some changes while keeping the accuracy of the information than having a legislative fix?

Mr. SKARZYNSKI. Congressman, we listen to our customers and we have a set of improvements that we have made based on customer input that has improved our performance. As I mentioned in response to Congresswoman Chu's question, we feel we are performing at a level in nine markets, including New York, where we have earned MRC accreditation. We are very open to receiving inputs. We have a very active program to take any changes, any improvements that we make and not just put them in one market, but put them in all markets. We are committed to making our service the very best service that we can make.

Mr. CUELLAR. Ms. Shagrin.

Ms. SHAGRIN. I would like to ask Mr. Ivie to confirm or not confirm the statement that Mr. Skarzynski just made about eight or nine markets being ready to be accredited.

Mr. CUELLAR. I thought it was only two markets.

Mr. IVIE. You don't earn accreditation until we grant it, so it is not earned yet. That is simply how I would state that.

I do want to correct one thing or at least make a statement because I don't want to leave the committee with a mis-impression. Ranking Member Issa was talking about paying people more if they are African-American or problematic in terms of gaining cooperation. Arbitron provides substantial incentives to people, financial incentives, to carry this device and participate.

We are actually not of the opinion that a lot more money is what is necessary here in terms of payments to panelists. In fact, there is an element of danger there. If you pay people too much, they might change their behavior based on that and you don't want to change their behavior, you want to measure their behavior.

We are looking at other avenues, more contact to panelists, training to panelists, strategies to convince a young, African-American

panelist why it is important to carry this device, why it is meaningful to them. It doesn't message back to you, it is not a cell phone or something. It is not a money thing.

Mr. CUELLAR. Thank you very much. Let me ask a few more questions.

What happened with those four law suits that were brought in by the attorney generals? There were questions on the methodology issues being brought up here today, correct?

Mr. SKARZYNSKI. The suits were focused on the allegation that we are under-counting minorities.

Mr. CUELLAR. Which is sort of the same testimony we are hearing today?

Mr. SKARZYNSKI. In part.

Mr. CUELLAR. Were those suits settled?

Mr. SKARZYNSKI. We have settled the suits with the New York attorney general, the New Jersey attorney general, and the Maryland attorney general and we are meeting all of our obligations under those settlements. The Florida attorney general came up just in the last few months and we are in discussions with the Florida attorney general.

Mr. CUELLAR. They were settled on the basis that there were questions about methodology, similar issues that we are bringing up today?

Mr. SKARZYNSKI. Not questions on methodology so much as the issue around the allegation of under-counting Black and Hispanic listeners.

Mr. CUELLAR. Which is a concern that I think is being brought up here today.

Mr. SKARZYNSKI. Yes, it is.

Mr. CUELLAR. Why wait for a lawsuit, why wait for a legislative fix? Why not just sit down with the customers and have the end result of getting accurate information? Why not sit down? If I was a monopoly, it would be a lot easier. It would be different than if I had four or five other competitors providing the same service.

I don't want to tell you how to run your business, but if I had customers that have been forced to go to 2 years instead of 1 week, questions about the use of incentives, demographic information, using your own target levels for demographic representatives on the panels, cutting down the participants when you had the diary by 66 percent, those are legitimate questions.

The way I see it, I come from a district that is about 78 percent minority, mainly Hispanics. I come from the State of Texas that has now earned pretty much minority majority status now. You look at the demographics for the United States, you look at the purchasing power of Hispanics, for example, and if you include the Blacks, the purchasing power is, what, \$800 billion a year and by 2012 it will be over \$1.2 trillion—huge purchasing power.

The way I see it, either you are going to be sued or you are going to get a legislative fix. If I were you, and I don't want to tell you how to run your business because you are the expert, I would rather sit down with them and say, what other changes do we need to make.

I know you are saying you are listening to your customers, but if you look to the person right next to you or other folks, they are saying no.

Mr. SKARZYNSKI. We sit down with our customers on a regular basis, we sit down with them on an individual basis. We have a Radio Advisory Council where all broadcasters are represented. Univision actually has two members on the Radio Advisory Council. We have an Advertising Agency Council where advertising agencies, including Hispanic and urban advertising agencies are present. We do a great deal to listen to our customers and we act on those inputs.

Mr. CUELLAR. If you were totally listening to your customers, we wouldn't be having this legislative hearing.

Mr. Chairman, thank you very much.

Chairman TOWNS [presiding]. Thank you very much.

I yield for 5 minutes to the gentleman from Missouri, Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman.

Just to piggyback on what my friend from Texas just said, with the introduction of Arbitron's PPM, several markets have been negatively impacted by poor methodology and undeveloped technology. Even in my home district in St. Louis, long established, minority-owned radio KATZ-FM fell victim to the latest string of closings.

Let me ask Ms. Shagrín, Univision was able to end their contracts with Arbitron in two markets. Basically, why was this decision made?

Ms. SHAGRIN. When the Houston market was rolled out and the methodology in Houston is different, we signed a long term contract. When Arbitron changed the methodology to the radio-only methodology, I had a lot of concerns in terms of whether or not they would be able to recruit and maintain a representative sample.

Because of my background, I realized what those problems would be and encouraged Arbitron at that time to make some changes in how they recruited.

Mr. CLAY. Ms. Shagrín, I am going to ask for the short version because I only get 5 minutes.

Let me ask you, on average, how much does it cost to subscribe to Arbitron and are these rates higher than before?

Ms. SHAGRIN. The rates are significantly higher than they were in a diary market.

Mr. CLAY. Thank you so much.

Mr. Skarzynski, clearly Univision's decision to decline your services and the PPM's lack of accreditation signals that your results are not accurate and negatively impact minority stations. How can you justify charging stations through exclusive and binding contracts for inaccurate information that can end their business?

Mr. SKARZYNSKI. Congressman, Univision did not break their contract with us. The contract was up for renewal. They did not renew. That is the specific issue on Univision.

We feel that we have a solid methodology and solid technology and we have had very, very strong performance in 2009 and we think we have a representative and valid survey. We are proud of what we do and we are confident that we are providing the best

service that we possibly can and we are not focused at all on trying to hurt any of our customers, including Hispanics.

Mr. CLAY. How do you adjust for the skewed results then of the different demographics? How do we fix that?

Mr. SKARZYNSKI. In terms of our performance against our methodology, we are performing at a similar level, at a comparable level for African-American and Hispanic listeners as we are for white listeners. Mr. Ivie showed some charts where he showed some dips, particularly in the summer. We have a problem with seasonality in the summer, but all of those levels of performance are levels that we share across the board. We don't have a different level of performance.

Mr. CLAY. To my understanding, you are using 66 percent fewer individuals on your PPM panels than when you used the diary method. You have also used your own target demographics instead of using reliable census data to accurately reflect your market. When these smaller panels are then broken down by ethnicity and other demographics, sample sizes are quite small. How can you possibly measure a station's audience accurately with such a small sample?

Mr. SKARZYNSKI. Congressman, we do use census data, just to comment on that. In terms of how Arbitron research compares to other consumer research, the Gallup Poll, for example, with which you are familiar, has a sample size of 2,400. The JD Power vehicle study has a sample size of 46,000. Our current sample size for the country is on the order of 55,000 right now. We feel we have a statistically significant sample size.

Mr. CLAY. How does this much smaller sample size account for unexpected results such as, for instance, suburban listeners listening to an urban station and other ways in which American cultures intersect? Sometimes I listen to Charlie Pride, believe it or not, or gospel.

Mr. SKARZYNSKI. Congressman, we work with all radio broadcasters in a given market in St. Louis, so we would be encoding every station in St. Louis. We don't charge any money for a particular station. In terms of covering the market of St. Louis, we would cover a listening area as opposed to just the city limits of St. Louis, so we would cover suburbs and we would get a representative sample that would map to the demographics of St. Louis based on census data updated each year for Claritas data.

Mr. CLAY. Dr. Barry Blessing stated "Weak encoding signals can prevent the PPM from recording certain stations." What is Arbitron doing to correct technical issues with the PPM that can negatively impact smaller stations with weaker signals?

Mr. SKARZYNSKI. We are aware of Dr. Blessing. He didn't contact Arbitron when he did his study. We are aware that he published his report. We have been in consultation with the MRC staff about that report and about that issue and we don't feel that particular comment is an accurate comment by Dr. Blessing.

Mr. CLAY. I yield back, Mr. Chairman. Thank you for your indulgence.

Chairman TOWNS. I want you to know you have nothing to yield back, but the language sounds good.

I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Thank you, Mr. Chairman.

Am I missing something here or does taking the human element out of it, the reporting element out of it really create a problem? For instance, if I have one of your PPM devices, Mr. Skarzynski, and I go into an elevator a couple of times a day and I am not listening but I am subject to that music or if I go into a shopping mall into the individual stores and every time I walk around, I am probably not listening to that stuff, but it is being recorded as if I am a listener, is that right?

Mr. SKARZYNSKI. That is correct, Congressman. We measure the radio that you are exposed to, so if you are in the elevator or in the shopping center or having lunch with Congressman Clay and you both are focused on your conversation but you are exposed to a particular radio station, we are measuring that. Why is that important? It is important for advertisers to know how much exposure does an individual have to radio.

Mr. TIERNEY. I guess if I am an advertiser, I want to know whether someone is listening or not, not whether they are exposed to it. That is just a personal preference, I guess, but if I am going to spend money, I want to know that someone is not just stuck in an elevator talking to somebody else and stepping out. I want to know that they are actually listening to it.

Mr. Ivie, are you familiar with the terms of the three settlements and the litigation?

Mr. IVIE. I am familiar with the terms of the New York and New Jersey settlements.

Mr. TIERNEY. Do those terms and the obligations to Arbitron under those settlements at all address any of the issues that you think were important for accreditation?

Mr. IVIE. I should let you know that both of those organizations subpoenaed our records, so they understood when they reached those settlements what our audit findings and discussions with Arbitron were. However, I would say that both New York and New Jersey set certain performance levels for Arbitron. Particularly, I am thinking about the compliance levels. They needed to have all the various demographic groups comply at certain rates with carrying the PPM. Some of those rates are lower than the MRC would desire. The settlements reached by the attorney generals—I am aware of the two, New York and New Jersey—are actually not the same levels that we would seek to set but they looked at our documentation when they set those levels.

Mr. SKARZYNSKI. Congressman, may I make a comment?

Mr. TIERNEY. I would like to go to Ms. Shagrin first. I think you indicated you would like to comment.

Ms. SHAGRIN. Just a point of order. They are not settlements, they are consent decrees. All of the attorney general discussions or lawsuits were consent decrees which means they could be reopened at any time.

Mr. TIERNEY. Mr. Skarzynski, did you want to make a comment?

Mr. SKARZYNSKI. The settlements with the New York attorney general and the New Jersey attorney general.

Mr. TIERNEY. The settlement or the consent decree?

Mr. SKARZYNSKI. The settlement follow the metrics of the MRC and look at particular periods of time beginning, for the New York

attorney general, the June, October, and December of this year and June of next year.

Mr. TIERNEY. What was the motivating factor for you not just going to the system that you used in Houston, Riverside, and San Bernardino and just implementing that everywhere because you knew that had been approved and you were ready to roll? Was it just cost or another factor?

Mr. SKARZYNSKI. The system that we use in Riverside-San Bernardino, which is accredited, is the system we are using everywhere in the country.

Mr. TIERNEY. As was the one in Houston, which is why I am asking you why you didn't just implement those systems everywhere?

Mr. SKARZYNSKI. The system we use in Riverside-San Bernardino is the system we are implementing across the country. The system in Houston was developed and set up at a time when we were working in cooperation with Nielsen whereby the same panel was going to have the audience measure television for Nielsen and radio for Arbitron. After starting that methodology in Houston, Nielsen decided they didn't want to pursue that. Hence, that is the explanation as to why we are using a radio-first methodology which was accredited in Riverside-San Bernardino and we are using that elsewhere in the country.

Mr. TIERNEY. Mr. Ivie, do you agree that the Riverside-San Bernardino product is what is being brought countrywide by Arbitron? Can you explain why it is good in one place and not in another?

Mr. IVIE. It is a very complex issue because we look at Arbitron's performance and their compliance with our standards and we accredit a market. Then we don't know what happens after that. We have to rely on Arbitron to maintain that performance.

When Riverside-San Bernardino was implemented, it had among the highest performance that we had ever seen. For example, the charts I showed earlier showed male and female tabulation rates for the PPM. If you remember, Atlanta was 70 or something like that. At the time when we accredited Riverside, those rates were over 75 and some were over 80 percent.

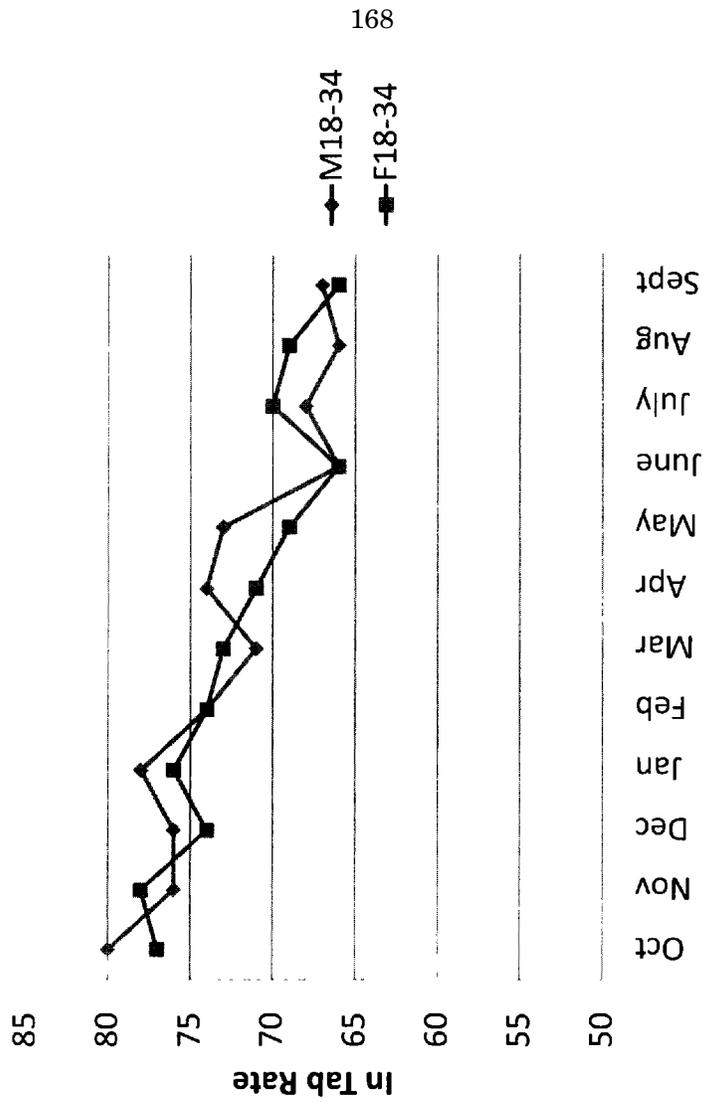
What has happened since in Riverside is that performance has fallen way down. Riverside looks very similar to the other market. The MRC is faced with a complex question. What do we do with Riverside? We have accredited Riverside; Arbitron has had that performance decline significantly, and if I can amend the record, I have a chart that actually illustrates that for you for Riverside.

Mr. TIERNEY. Mr. Chairman, I ask that the chart be put in with unanimous consent.

Chairman TOWNS. Without objection, so ordered.

[The information referred to follows:]

Riverside Intab Rates, Oct '08 - Sept '09



Riverside recommended for accreditation in Sept. 2008

Mr. TIERNEY. Can you explain why San Bernardino changed?

Mr. IVIE. I can't. It has to do with how Arbitron interacts with its panelists. Some of it, as Mr. Skarzynski said, might be seasonality, although the period I am looking at for Riverside on this chart is from October, when we accredited it, to September. When Mr. Skarzynski says he believes that in however many markets it was, seven or eight markets, they earned accreditation, we are looking at Riverside and saying, if we accredit, what is going to happen next month.

What we need from Arbitron is a demonstration that their performance can be sustained because it wasn't sustained in Riverside. I urge you to take a look at this chart on Riverside. We are trying to assess what we do with Riverside. It is accredited right now. We made a decision to accredit it. It is difficult for us to remove accreditation. We are trying to figure out what to do with it. We are trying to be constructive, improve it just like the other markets. This is a challenging issue, trying to get these markets to have good performance that is sustained. I urge you to look at this chart for Riverside.

It is true that Houston has a totally different methodology in several areas—the in-person recruitment, the in-person coaching. Houston is a different system than the other markets, but Riverside is the same.

Mr. TIERNEY. Thank you very much.

Thank you, Mr. Chairman.

Chairman TOWNS. Thank you very much.

Let me indicate to the Members that in about 5 or 10 minutes, we will have votes. I would like to release this panel. Votes are now. We will recess for 1 hour and then we will come back, so you can have lunch.

Let me say before we recess, I am very concerned with the fact that you are saying that you really have no supervision, no anything and if you decide to roll out something, you roll it out and if you are asked to wait, you roll it out anyway. It is serious business because some of these radio stations are not going to be around if something is not done and done very quickly. I don't see the kind of commitment that I would like to see.

I am one that does believe in legislation. I want you to know that. I am hoping that we can work this out and come up with some kind of agreement before we move any further. You say the FCC has no role, MRC is voluntary and that is good if they want to be invited. You invite them. If not, you tell them go home and I understand all that.

At the same time, I am concerned about the fact that these minority stations are under-represented right now. Over the last 30 years we have done a little something and now to lose that really bothers me. I think you need to know that before we leave, we need to make certain there is going to be some movement here that is going to make it possible to have the kind of reporting that is going to be accurate and to make certain these stations are able to stay around.

When I hear of a station that is No. 1, then you change the system and it becomes No. 15, I have problems understanding that just from a numbers standpoint. I just want to make that clear.

We are going to dismiss this panel and we will come back at 1:30 p.m. I want to let you know that I am troubled and we need to make certain that something is done that brings about the kind of accuracy that is going to help in terms of these stations being able to advertise and get business. I understand the economic situation, but when I look at the 20 percent difference, I have to look at that.

The other question is in terms of your bottom line versus what it was when you had the paper diary versus what it is now, that is an issue. I think you might be cutting corners and at the same time, you are cutting people out.

We will adjourn until 1:30 p.m.

[Recess.]

Chairman TOWNS. The committee will reconvene.

It is a longstanding practice that we swear in all of our witnesses. Please stand and raise your right hands.

[Witnesses sworn.]

Chairman TOWNS. You may be seated.

Let me introduce our panel.

First, we have Charles Warfield, president and CEO of the Inner City Broadcasting Corp. since 2000 and is a 32-year veteran of the broadcasting industry. His company owns 17 radio stations which target African-Americans and urban audiences in New York City, San Francisco, Jackson, MS and Columbia, SC. It is the second largest African-American-owned radio station company in the United States. Welcome.

We also have Frank Flores who started his career in the broadcasting industry in 1981. Since then, he has worked his way up from sales associate at a local station to the current position of chief revenue officer and New York market manager for the Spanish Broadcasting System. Welcome.

Mr. Alfred Liggins is the president and CEO of Radio One, Inc. and president and chairman of TV One, LLC. Radio One is the largest, multimedia company that targets African-Americans and urban listeners with 52 radio stations located in 16 urban markets. Mr. Liggins is responsible for the overall management and operations of Radio One assets. Welcome.

Jessica Pantanini serves as the chief operating officer for Bromley Communications, Inc. as well as vice chair for the Association of Hispanic Advertising Agencies. Ms. Pantanini is recognized as a national expert within the evolving Hispanic marketing industry.

Let me welcome all of you.

We will start with you, Mr. Warfield, and come right down the line.

STATEMENTS OF CHARLES WARFIELD, PRESIDENT AND CHIEF OPERATING OFFICER, ICBC HOLDINGS, INC.; JESSICA PANTANINI, CHIEF OPERATING OFFICER, BROMLEY COMMUNICATIONS, INC.; FRANK FLORES, CHIEF REVENUE OFFICER AND NEW YORK MARKET MANAGER, SPANISH BROADCASTING SYSTEM; AND ALFRED C. LIGGINS III, CHIEF EXECUTIVE OFFICER AND PRESIDENT, RADIO ONE, INC.

STATEMENT OF CHARLES WARFIELD

Mr. WARFIELD. Thank you.

Chairman Towns, Ranking Member Issa, members of the committee, thank you for inviting me today to testify.

As indicated, I am Charles Warfield, president and chief operating officer of ICBC Broadcast Holdings, Inc. Our 37-year-old African-American owned company operates 17 commercial broadcast radio stations that primarily target African-American audiences in New York City, San Francisco, Jackson, MS, and Columbia, SC.

We have firsthand experience with the conversion of Arbitron rating surveys from paper diaries to the new Personal People Meter. Our stations have experienced a disproportionate reduction in the number of listeners reported by Arbitron's PPMs compared with stations that serve general audiences.

The principal measurement that our industry uses is the average quarter hour ratings which translates directly into the number of dollars that an advertiser will pay for running a commercial. The average quarter hour can be measured for various demographics. Advertisers on our stations are most interested in listeners between the ages of 25 and 54 or, in some cases, 18 to 34.

In New York City, the adults 25 to 54 average quarter hour for our station, WBLS, have been a steady 0.8 or 0.9 for the last seven quarters in which Arbitron had used paper diaries for collecting data which incorporates the period of fall 2006 through the spring of 2008.

Immediately following the conversion to PPM, the average quarter hour from WBLS abruptly dropped to 0.4 for September 2008, a 50 percent reduction. The average quarter hour rating has fluctuated in the range of 0.3 to 0.6 for the 14-month rating period beginning with that first report in September. Our formats did not change, our audiences did not change. The only change was the PPM methodology.

Arbitron also switched from paper diaries to PPM in the San Francisco market in September 2008. Our station, KBLX-FM, took a similar hit in that market. In the spring ratings book, KBLX's adults 25-54 average quarter hour was 0.5. The first PPM report gave the station an average quarter hour of 0.3, a drop of 40 percent. Since then, each monthly PPM survey has shown a decrease anywhere from 60 to 20 percent from the previous diary results.

The same pattern shows up for stations serving African-American and Hispanic audiences in other markets when PPM ratings are introduced. WDAS-FM, Philadelphia's top-rated station according to the paper diaries, suffered a 44.4 percent decline in its average quarter hour ratings for listeners 12-years-old and older. Even more damaging was a 57.1 percent decline in its primary target demographics of adults 25 to 54. Also in Philadelphia, WRNB-FM and

WUSL-FM incurred losses of 60 and 57.1 percent respectively in a 12-plus audience.

KJLH-FM, the Los Angeles Station owned and operated by Stevie Wonder and managed by Ms. Karen Slade who is in attendance here today, suffered an 84 percent audience decline and dropped from No. 20 in that market to No. 40 with effectively no ratings.

In Chicago, WGCI-FM, second ranked under paper surveys, lost 67 percent with PPM and dropped to No. 12.

In all of these markets, the only factor that can account for the precipitous deterioration is Arbitron's unaccredited ratings methodology. Plummeting ratings have shown up again and again for stations targeting African-Americans and Hispanic audiences and other markets where Arbitron has introduced PPM. Ratings for stations using formats appealing to general audiences have been nowhere near as significantly affected.

We do not believe the ratings shifts are the result of electronic measurement technology itself, but rather, they stem from the methodology that Arbitron employs. The company has relied on telephone solicitation to recruit PPM survey panelists instead of addressed-based contacts. This change alone leaves out households with unlisted numbers and those that rely exclusively on cell phones.

Young urban Blacks and Hispanics are more likely to rely exclusively on cell phones than the average U.S. household. Arbitron has tried to make up for this with separate cell phone only samples but the numbers have been too small. Additionally, Arbitron is demanding that PPM panelists make longer term commitments to carry around a pager-sized device from the time they roll out of the bed until they return at night.

Congressional hearings back in 1964 made it obvious that ratings play a key role in the economics of commercial radio. The non-profit MRC was formed to analyze ratings methodology and practices. So far Arbitron has qualified its PPM service for MRC accreditation in only two markets, Houston and Riverside, out of the 30 plus that it has rolled it out in.

The Houston project was a joint venture and did demonstrate that the PPM survey can be accredited but the recruiting process necessary is expensive, more than Arbitron wants to spend. Arbitron has been unwilling to invest the resources necessary to achieve MRC accreditation in any other markets.

The reductions in average unit ratings and station revenues caused by inaccurate PPM reports have left minority-targeted stations battered and bruised. Then rubbing salt in our wounds is the Arbitron station contract. The standard form contract provided the stations by the monopolistic ratings company with little opportunity to negotiate its terms requires stations to actually pay Arbitron significantly higher fees once the inaccurate PPM system is operating in our markets—more money for less accuracy and lower revenue. The contracts do not require MRC accreditation. The math only benefits Arbitron, which can increase its profits by rushing PPM into markets with faulty methodology.

We are dedicated to serving minority audiences in the markets where we have stations, as are other broadcasters who are mem-

bers of the PPM Coalition. It would be a far easier path to jettison this mission and program to the ratings by converting to run-of-the-mill, plain vanilla formats.

Large group broadcasters with clusters of stations in a market can already do that by shuffling formats among their stations. As minority owners, we have a strong sense of responsibility toward providing broadcast services that otherwise would be unavailable. Our coffers, however, are not bottomless and our ability to sustain our businesses in the face of these problems is ultimately limited.

Attorneys general in four States have made attempts to ameliorate these problems, but even the simple concept of requiring Arbitron to secure MRC accreditation has thus far not been fruitful. We believe this committee should send a strong message to the industry that something must be done to preserve diversity of programming and ownership in broadcasting.

Requiring accurate and fair ratings data is one step. We believe at least this requires Arbitron to gain MRC accreditation before any additional markets are commercialized. It neither is requiring Arbitron to release minority-targeted stations from those burdensome contracts.

With that, I do thank you for the invitation today and welcome any questions as we continue.

[The prepared statement of Mr. Warfield follows:]

**Statement of Charles M. Warfield, Jr.
before the
Committee on Oversight and Government Reform
December 2, 2009**

Chairman Towns, members of the Committee, thank you for inviting me to testify today. My name is Charles M. Warfield, Jr. I am President and Chief Operating Officer of ICBC Broadcast Holdings, Inc. My company owns and operates seventeen commercial broadcast radio stations that primarily target African American audiences in radio markets across the nation, including New York City, San Francisco, Jackson, Mississippi, and Columbia, South Carolina.

We have had first-hand experience with the conversion of Arbitron ratings surveys from paper diaries to the new Personal People Meters ("PPM"). Our stations have experienced a disproportionate reduction in the number of listeners reported by Arbitron's PPMs compared with stations that serve general audiences.

Commercial radio stations rely on the sale of advertising, which is generally their sole revenue stream. Advertisers rely on ratings data which is supposed to represent a fair estimate of the number of persons who will be in the audience for their commercials. The principal measurement that our industry uses is the "Average Quarter Hour Rating" ("AQH"), which translates directly into the number of dollars that an advertiser will pay for running a spot. The AQH can be measured for various demographics. Advertisers on our stations are most interested in listeners between the ages of 25 and 54.

In New York City, the Adults 25-54 AQH for our station WBLS-FM had been a steady 0.8 or 0.9 for the last seven quarters in which Arbitron had used paper diaries for collecting data (Fall of 2006 through Spring of 2008). Following the conversion to PPM, the

AQH for WBLS abruptly dropped to 0.4 for September of 2008 – a 50% reduction. The AQH has remained in the range of 0.3 to 0.6 for 14 monthly ratings reports from the first PPM survey in September of last year through the report for October 2009.

Arbitron also switched from paper diaries to PPM in the San Francisco market in September 2008 and our station KBLX-FM took a similar hit. In the Spring ratings book KBLX's Adults 25-54 AQH was 0.5. The first PPM report gave the station an AQH of 0.3, a drop of 40%. Since then, each monthly PPM survey has shown a decrease from 60% to 20% below the last paper-diary survey.

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In all of these markets, the only factor that can account for the precipitous deterioration is Arbitron's ratings technology. Plummeting ratings have shown up again and again for stations targeting African American and Hispanic audiences in other markets where Arbitron has introduced PPM. Ratings for stations using formats appealing to general audiences have been nowhere near as significantly affected.

We do not believe the ratings shifts are the result of the electronic measurement technology itself, but rather they stem from the methodology that Arbitron employs. The company has relied on telephone solicitation to recruit PPM survey panelists instead of address-based contacts. This change alone leaves out households with unlisted numbers and those that rely exclusively on cell-phones. Young urban Blacks and Hispanics are more likely to rely exclusively on cell phones than the average U.S. household. Arbitron has tried to make up for this with separate cell-phone-only samples, but the numbers have been too small. Additionally, Arbitron is demanding that its PPM panelists make longer-term commitments to carrying around a pager-size device from the time they roll out of bed in the morning until they return there at night. There are obviously compliance problems with this regimen, and when drop-outs are subtracted from a target sample that is small to begin with, the chance of getting unreliable data increases.

Congressional hearings back in 1964 made it obvious that ratings play a key role in the economics of commercial media and that inaccurate ratings present a significant danger to the public. The nonprofit Media Ratings Council (“MRC”) was formed to analyze ratings methodology and practices and provide accreditation to efforts that comply with its standards. So far Arbitron has qualified its PPM service for MRC accreditation in only two markets: Houston and Riverside California. The Houston project began as a joint venture between Arbitron and the Nielsen Company. It demonstrated that a PPM survey can be accredited, but the recruiting process necessary to achieve this is expensive – more than Arbitron wants to spend. The large minority population in Riverside made it relatively easy and less expensive to recruit samples large enough to satisfy the MRC standards. Arbitron has been unwilling to invest the resources necessary to achieve MRC accreditation in any other market.

The reductions to Average Unit Ratings and station revenues caused by the inaccurate PPM reports have left minority-targeting stations battered and bruised. Then, rubbing salt in our wounds, is the Arbitron station contract. This standard form contract, provided to stations by the monopolist ratings company without an opportunity to negotiate its terms, requires stations to actually pay Arbitron significantly higher fees once the inaccurate PPM system is operating in our markets. More money for less accuracy and lower revenue. The contracts do not require MRC accreditation. The math only benefits Arbitron, which can increase its profits by rushing PPM into markets with faulty methodology.

We are dedicated to serving minority audiences in the markets where we have stations, as are the other broadcasters who are members of the PPM Coalition. It would be a far easier path to jettison this mission and program to the ratings by converting to run-of-the-mill, plain vanilla formats. Large group broadcasters with clusters of stations in a market can already do that by shuffling formats among their stations. As minority owners, we have a strong sense of responsibility toward providing broadcast services that otherwise would be unavailable. Our coffers, however, are not bottomless and our ability to sustain our businesses in the face of these problems is ultimately limited.

Attorneys General in four states have made attempts to ameliorate these problems, but even the simple concept of requiring Arbitron to secure MRC accreditation has thus far not been fruitful. We believe that this Committee should send a strong message to the industry and to the Federal Communications Commission that something must be done to preserve diversity of programming and ownership in broadcasting. Requiring accurate and fair ratings data is one step. Another is requiring Arbitron to release minority-targeted stations from those burdensome

contracts. With the money we would recover, we could find another ratings service provider willing to produce accredited market surveys.

Thank you again for your invitation and your concern.

Chairman TOWNS. Thank you very much for your testimony.
Ms. Pantanini.

STATEMENT OF JESSICA PANTANINI

Ms. PANTANINI. Good afternoon, Chairman Towns, Ranking Member Issa and Honorable Members of Congress.

Thank you for the opportunity to address the House Committee on Oversight and Government Reform regarding the serious challenges and repercussions of the roll out and use of Arbitron's Personal People Meter.

I am Jessica Pantanini, vice chair of the Association of Hispanic Advertising Agencies [AHAA] and COO of Bromley Communications, Inc., a minority-owned, Hispanic advertising agency.

AHAA represents 98 percent of Hispanic specialized agencies in the United States and more than 100 related industry suppliers such as research firms, media companies, and production companies, all of which the vast majority are small businesses.

I am here today because the specialized advertising industry is facing severe consequences resulting from the implementation of PPM currency. My testimony here is a culmination of numerous attempts and years of effort and resources to resolve sampling methodology challenges with Arbitron unsuccessfully.

Arbitron's continuous improvement plan has yet to alleviate our concerns. We need a commitment to when we can expect PPM to be accredited and I pray it is before more minority stations are forced out of business. There are two points I would like to make.

One, we support electronic measurement. We believe wholeheartedly that the industry needs to move in that direction and that PPM technology more accurately measures listening versus diary. This is not about PPM versus diary. Rather, it is about the methodology that fuels the data.

In addition, while we may only represent a handful of Arbitron's clients, we are the ones that have a vested interest in the accurate measurement of minority audiences. It is our bread and butter.

Our goal is to ensure that radio sampling methodology is reliable and fair so that AHAA agencies and members can adequately deliver consumers and ultimately sales for advertisers. We depend on the independent endorsement of accrediting bodies such as the Media Ratings Council to provide us with the competence we need to make appropriate media buying decisions.

Because our membership represents a growing but smaller portion of the market as compared to the general market agencies and radio broadcasting companies, we don't have the resources to verify the data and subsequently rely heavily on the MRC.

The bottom line is that Hispanic listeners are being represented inaccurately by Arbitron. While Arbitron is making great leaps in rolling out PPM, they are only making small improvements in methodology such as increasing the number of cell phone only households.

Those changes are insignificant compared to the damaging impact the roll out is having on our industry. We need sustainable change and improvement on the sample now before additional markets are converted to this new currency.

Radio is a critical element of our marketing mix and has been the backbone of our advertising outreach efforts for decades. Ethnic stations that were once ranked at the top have dropped significantly in the reported audience levels in PPM markets. We need your help to stop the commercialization of PPM without MRC accreditation or prohibit broadcasters from using PPM data until markets are accredited.

Hispanic Americans are fueling the growth as indicated by the census in States such as California, Texas, and Florida which are becoming majority minority. How is it possible that Arbitron can continue to improperly measure these audiences?

In closing, we ask that Arbitron is forced to gain accreditation in these markets. It is key to the success of the industry and has devastating impacts to agencies, broadcasters and advertisers alike.

[The prepared statement of Ms. Pantanini follows:]

Prepared Testimony
of
Jessica Pantanini
Vice Chair of the Association of Hispanic Advertising Agencies (AHAA)
and
COO of Bromley Communications
before the
House Committee on Oversight and Government Reform
December 2, 2009
Hearing re: Portable People Meter (PPM)

Thank you for the opportunity to address the House Committee on Oversight and Government Reform regarding the serious challenges and repercussions of the roll out and use of Arbitron's Portable People Meter (PPM) data. I am Jessica Pantanini, vice chair of the Association of Hispanic Advertising Agencies (AHAA) and COO of Bromley Communications, an independently owned and Hispanic-specialized agency headquartered in San Antonio.

On behalf of the Hispanic-specialized advertising industry, we appreciate the committee's consideration of our concerns regarding the devastating implications of the continued use of PPM's unsound statistical data. If the methodology in question was sound, it already would have been accredited by the Media Ratings Council (MRC).

PPM sampling methodology is critically flawed and the destructive results of poor sample quality and size could wipe out an industry that has flourished for more than 30 years.

About AHAA:

The Association of Hispanic Advertising Agencies (AHAA) is the national organization of firms that specialize in marketing to the nation's more than 46 million Hispanic consumers. Hispanics are the most rapidly growing segment of the American population and Census projections indicate that several states will soon be majority minority.

AHAA represents nearly 98 percent of the Hispanic-specialized agencies in the U.S. and more than 100 related industry suppliers such as research firms, media companies, production companies, etc. The organization was founded to promote the strength of the Hispanic marketing and advertising industry to the private and public sectors. Its mission is "to grow, strengthen and protect the Hispanic marketing and advertising industry by raising awareness of the value of the Hispanic market and enhancing the professionalism of the industry."

Underscoring the professionalism that drives the association, the nearly 100 AHAA member agencies adhere to common Standards of Practice based on honorable principles such as integrity, excellence and character. These standards validate the seriousness of our organization and the importance of issues such as reliable media measurement in execution of these standards.

AHAA agencies offer a unique blend of cultural understanding, market intelligence, proven experience and professionalism that delivers Hispanic market success for advertisers. We help organizations gain market share, increase revenue and grow profits by connecting with and delivering messages that reach America's Hispanic consumers – an audience with estimated buying power of nearly \$1 trillion. Our industry was built by pioneers and visionaries that today represent more than \$5 billion in advertising investments: a significant portion of which is dedicated to radio. According to Ad Age, of the \$4 billion in measured Hispanic media spending, \$751 million is allocated to Hispanic radio.

Our agencies have fiduciary responsibilities as stewards of their clients' money, and as the representative of these agencies, AHAA has a responsibility to ensure the legitimacy of PPM audience representation. Our organization and its members are committed to bringing about necessary change and valid measurement of our consumers.

Purpose of Statement:

I am here today because the Hispanic-specialized advertising industry is facing severe consequences resulting from the implementation of PPM currency. My testimony here is the culmination of numerous attempts and years of effort and resources to resolve sampling methodology challenges with Arbitron unsuccessfully.

We have two member agencies represented on Arbitron's Advertising Council who, along with other council members, have been articulating these same concerns repeatedly for more than two years. Last year, AHAA established a PPM Task Force comprising representatives from 14 agencies and media companies. The task force was charged with reviewing PPM pre-currency and developing a list of issues to review with Arbitron. Several meetings and conference calls yielded reams of statistical data from Arbitron but no comprehension of the industry's very sincere and crucial issues.

On September 2, 2008, the AHAA Board of Directors voted unanimously to join the PPM Coalition and join the emergency petition to the FCC. Additionally, AHAA leaders have met with members of Congress in key markets to urge their involvement in mandating reform. On May 21, 2009, AHAA leaders met with Arbitron CEO Michael Skarzynski and his senior management team to express the industry's concerns and frustrations in-person but our fundamental requests were denied: 1) to gain MRC accreditation; 2) to provide dual currency reporting (PPM and diary) until accreditation was gained; and/or 3) to stop the roll out of additional PPM market until receiving accreditation.

Our goal is to ensure that radio sampling methodology is reliable and fair so that AHAA agencies and members can adequately deliver consumers — and ultimately sales — for advertisers. We depend on the independent endorsement of accrediting bodies such as the Media Ratings Council (MRC) to provide us with the confidence we need to make appropriate media buying decisions. Because our membership represents a growing but smaller portion of the market as compared to general market agencies and radio broadcasting companies, we don't have the resources to verify data collection methods and analysis on their own which is why we rely so heavily on organizations such as the MRC for validation of accurate audience representation.

There are two points that I would like you to know:

- 1) We support electronic measurement. We believe whole-heartedly that the industry needs to move in that direction; and,
- 2) While we may only represent a handful of Arbitron's clients, we are the one's that have a vested interest in the accurate measurement of minority audiences: that's our bread and butter.

The bottom line, however, is that Hispanic listeners are being represented inaccurately by Arbitron. While Arbitron is making great leaps in rolling out PPM, they are making small improvements such as increasing the number of cell-phone only households. However, those changes are insignificant compared to the damaging impact the roll out is having on our industry. We need sustainable change and improvement to the sample now — before additional markets are converted to this currency.

Radio is a critical element of our marketing mix and has been the backbone of our advertising outreach for decades. We rely on accurate audience measurement to guide our buying decisions and recommendations to clients. In a recent survey of AHAA member agencies, results indicated that PPM generally is inhibiting media professionals from effectively planning and purchasing radio for their clients. Inaccurate ratings are forcing agencies to recommend radio for advertisers based on historical knowledge of the stations' performance which is not a sustainable effort. It takes more time and requires additional manpower. Furthermore, clients will only tolerate this for a short period of time as they are accountable to their management.

While agencies are just beginning to feel the impact of PPM, our recent survey results indicated that advertisers are beginning to question the reliability of radio to deliver sales. The PPM ratings are not representing the buying audience and therefore agencies are using and recommending other mediums such as television.

Ethnic stations that were once top ranked have dropped significantly in their reported audience levels in PPM markets. Now, one could say that this is simply a result of moving from a diary instrument to a PPM instrument. Arbitron would like everyone to believe that that is in fact the case. They will tell you that they used the same methodology they had in place when diaries were the instrument; with the exception of

Houston — the only MRC accredited market. However, this is similar to taking the engine out of an old VW and putting it into a brand new Ferrari. When you put a more precise instrument on a flawed methodology the flaws become more apparent.

Radio stations, as a result, are dropping their rates because they can no longer justify charging the same amount for smaller audiences. According to specific client guidelines, some stations no longer qualify to be purchased. Additionally, Univision's decision not to encode until PPM is accredited by the MRC is making the job of media buying even more difficult. The data for entire markets is unusable and stations will be cut out of buys completely.

When the option of Hispanic radio is eliminated, unlike other markets, choosing an alternative format is not a consideration when trying to reach certain segments of the Hispanic population.

The agencies are caught between a rock and a hard place. Advertisers hire agencies to develop the most effective schedules possible in a market in order to drive sales. If an agency can no longer purchase a station due to its declining audience levels, as reported by Arbitron, the agency has no choice but to leave them off the schedule. Subsequently, the agency is forced to develop a buy that will result in fewer sales than a client expects and it is likely that the client will begin to reassess their strategy and discontinue their efforts to advertise to these minority audiences.

The decision, by Arbitron, to not properly invest in these segments to ensure proper measurement of these audiences is having a detrimental effect on broadcasters, agencies and advertisers. Additionally, the long-term affects PPM's faulty ratings and methodology will have on the communities these broadcasters serve is eminent.

Conclusion:

We need your help. Stop the commercialization of PPM without MRC accreditation and/or prohibit broadcasters from using PPM data until markets are accredited.

What will happen if steps aren't taken to address the situation? Everyone loses. More minority radio stations will be forced to close their doors; agencies will lose one of the most effective mediums in reaching Hispanics in the U.S.; advertisers will lose sales and confidence in multicultural marketing; and ultimately communities will lose a vital link to news and information they can't access other places.

While the consequences to agencies and advertisers aren't yet apparent, advertisers are questioning the relative cost and rationale for including radio in our media plans. As the unexplained drop in ratings has driven up the cost per point (CPP) it is increasingly difficult to justify radio. Hispanic-specialized agencies have been creative to maintain radio in their plans but the question remains for how long.

The reality is that clients compare the efficiencies of a medium based on cost and purchasing radio in most markets has become more expensive than TV due to PPM. Agencies have tough choices: cut radio from their plans or require radio broadcasters to reduce their rates by 50 percent.

Hispanic broadcasters cannot sustain those cuts and stay in business. As radio stations begin to disappear, fewer stations will result in less effective means of reaching the various consumer targets.

In order to maintain a robust marketplace and Hispanic advertising and broadcast industry, Arbitron must be prohibited from rolling out more markets without MRC accreditation. Arbitron is currently the sole provider of radio ratings and measurement data further complicating our ability to do business effectively.

Hispanic Americans are fueling America's growth as indicated by the Census in states such as California, Texas and Florida which are becoming majority minority. How is it possible that Arbitron can continue to improperly measure these audiences?

Thank you again for your consideration and this forum through which we can publicly voice our concerns. We look forward to the next steps.

Chairman TOWNS. Thank you very much for your statement.
Mr. Flores.

STATEMENT OF FRANK FLORES

Mr. FLORES. Thank you very much for the opportunity, Chairman Towns.

I am Frank Flores, the chief revenue officer of the Spanish Broadcasting System [SBS], based in New York.

SBS is the largest publicly traded Hispanic-controlled media and entertainment company in the United States today. SBS owns and operates 20 radio stations in the Hispanic markets of New York, Los Angeles, Miami, Chicago, San Francisco, and Puerto Rico, including four of the top-rated Spanish language radio stations airing the Tropical, Mexican Regional, Spanish Adult Contemporary, and Urban formats.

For purposes of brevity and not to recount everything said before, let me just summarize a couple of important points.

For all intents and purposes, Arbitron is an unregulated monopoly, the only recognized source of radio ratings in the United States today, especially in the market where we operate radio stations. SBS, the company, has had an unblemished history as a client in good standing with Arbitron for over a quarter of a century.

SBS was the first group owner to sign up for PPM. SBS was the first minority broadcaster to sign up for PPM. SBS wholeheartedly supports electronic measurement of all radio audiences. However, and this is a big point, significant modifications and alterations need to be undertaken in order for PPM to accurately reflect the listening levels of all minority audiences. The effects of PPM on Spanish radio have been devastating and in direct contradiction to the years of rating results provided by the diary methodology. Worse yet, Arbitron is charging up to 60 percent more for its PPM ratings than it did for its diary ratings.

SBS has offered to assist Arbitron in conjunction and in cooperation with other radio colleagues in working on a universally accepted resolution to this PPM issue.

Let me further state that the entire industry has been affected by the economy and some will say that the economy, in large part, is solely responsible for the down trend in our business, but there can be no argument that the ratings produced by the PPM methodology has also added greatly to our inability to price our inventory on a competitive basis leading to these historic declines in revenue.

In closing, the fact that our business, the business of minority broadcasting, has been unfairly affected by the implementation of PPM, we, as a company, are committed to finding a way to resolve our issues for the betterment of our company and our ability to serve our community. We are hopeful that by working with all parties, including Arbitron, to find these solutions, our goal is to achieve a more accurate and stable result in ratings that reflect a more representative account of all minority listeners. The best way, in our opinion, would be MRC accreditation in all markets. We are resolute to have that be our eventual goal.

Thank you.

[The prepared statement of Mr. Flores follows:]

**Written Testimony of
FRANK FLORES
Before the House Committee on Oversight and Government Reform
December 2, 2009**

1. I am the Chief Revenue Officer of Spanish Broadcasting System ("SBS") based in New York. SBS is the largest publicly traded Hispanic-controlled media and entertainment company in the United States. SBS owns and operates twenty radio stations in the Hispanic markets of New York (including New Jersey), Los Angeles, Miami, Chicago, San Francisco, and Puerto Rico, including the number-one Spanish language radio station in America, WSKQ-FM in New York City, as well as four of the top seven rated radio stations airing the Tropical, Mexican Regional, Spanish Adult Contemporary, and Hurban (Hispanic-Urban) format genres.

2. I submit this testimony to detail the effect Arbitron's commercialization of PPM data has had on SBS's radio stations.

3. The key metric for buying and selling advertising in the broadcast radio industry is the Average Quarter Hour (AQH) rating. This metric is calculated by taking the average number of persons listening to a particular station for at least five minutes during a fifteen minute period and expressing it as a percentage of the population in the region. For example, if 10,000 people listen to a station for at least five minutes between 9:00 and 9:15 and the metro area has 1,000,000 people, the station's AQH rating is 1.0.

4. Below are two tables showing the change in weekday AQH ratings for two of SBS's stations, WSKQ-FM and WPAT-FM, in the Adults 25-54 age group since the commercialization of PPM:

WSKQ-FM

Time Slot	Spring Diary Rating	Aug-Oct PPM Rating	% Difference
M-F 6AM – 10AM	1.2	0.3	-75%
M-F 10AM – 3PM	1.2	0.7	-42%
M-F 3PM – 7PM	0.7	0.5	-29%
M-F 7PM to 12AM	0.4	0.2	-50%

WPAT-FM

Time Slot	Spring Diary Rating	Aug-Oct PPM Rating	% Difference
M-F 6AM – 10AM	0.8	0.2	-75%
M-F 10AM – 3PM	0.7	0.2	-71%
M-F 3PM – 7PM	0.7	0.2	-71%
M-F 7PM to 12AM	0.3	0.1	-67%

5. When a rating decreases by 50%, the amount that an advertiser will pay to purchase an advertising spot during that time slot ordinarily decreases by at least the same amount. In addition, some advertisers only purchase time on the top five or ten stations in a market. Thus, if a station drops out of the top ten, it will not receive any part of some advertising buys.

6. In our advertising negotiations since Arbitron commercialized the PPM data, the average price of advertising on WSKQ and WPAT has decreased by between 20% and 30%. Based on my experience and expertise, I believe that the decrease would have been even larger had the New York Attorney General's office not warned

advertisers that Arbitron's PPM ratings may suffer from fundamental flaws and had the FCC, United States Congress and the New York City Council not made the industry aware of the inaccuracies in Arbitron's PPM data.

7. Based on my experience and expertise, I believe that if the current PPM methodology remains in use, our loss of revenue will be continue to be greater than our general market counterparts.

8. As a result of the commercialization of PPM, SBS has already downsized its current staff by more than 25%, and if the current PPM methodology remains in use, further downsizing might be forthcoming.

9. Let me further state that our entire industry has been affected by the economy and some will say that the economy in large part is solely responsible for the downtrend in our business but there can be no argument that the ratings produced by the PPM methodology has also added greatly to our inability to price our inventory on a competitive basis lending to these historic declines in revenue.

10. In closing, the fact is that our business, the business of minority broadcasting, has been unfairly affected by the implementation of the PPM. We as a company are committed to finding a way to resolve our issues for the betterment of our company and our ability to serve our community. We are hopeful of working with all parties – including Arbitron – to find these solutions. Our goal is to achieve a more accurate and stable result in ratings that reflect a more representative count of all minority listeners. The best way, in our opinion, would be MRC accreditation in all PPM markets and we are resolute in making that our eventual goal.

Chairman TOWNS. Thank you very much for your testimony.
Mr. Liggins.

STATEMENT OF ALFRED LIGGINS

Mr. LIGGINS. Thank you, Chairman Towns, Ranking Member Issa, and other members of the committee for providing me the opportunity to testify.

For those of you I have not met, let me introduce myself. I am Alfred Liggins, CEO of Radio One, Inc. As you heard earlier, we are the largest media company targeting African-Americans in the United States. We are a multi-platform company that includes radio, Internet, satellite, and our nationally distributed cable network, TV One.

As owner of 52 radio stations located in 16 urban markets, I want to express both my support and confidence in the future of urban radio in a PPM world. My understanding is that during this hearing, you are asking, does PPM affect the diversity of radio and is it contributing to minority radio's decline? I categorically say that I believe in both the short- and long-run, PPM is neither affecting the diversity of our air waves nor contributing to the decline in minority radio.

Rather, what PPM has done is expose some poor choices made during the good times before this recession hit. Some broadcasters became over-leveraged, including ourselves, and perhaps expanded when they should not have and some broadcasters launched urban formatted stations in markets where there are already established urban radio stations, many that we have owned and many our colleagues in the minority radio business have owned and we drew competitors that we should not have.

I do not believe that the commercialization of PPM is to blame for the problems currently facing some minority broadcasters. Based on our own PPM experience, PPM does not discriminate against minority-owned broadcasters or urban formatted stations. There are always short-term dislocations in a learning curve when a new technology is adopted, but PPM is the new reality and I would much rather get reality on the road now and keep it moving forward than to delay it.

The heated dispute and controversy result primarily from the fact that the PPM device, as compared to the paper diary, can have a downward impact on the average quarter hour rating or AQH, which is a result of dramatically increased audiences combined with lower amounts of time spent listening.

The average quarter hour rating numbers with PPM are generally lower for most stations in all markets regardless of format. Radio One has seen dramatic declines in its AQH ratings after PPM's commercialization in a market. However, by designing our programming for a PPM world, including fine tuning our music, promotions and commercial breaks, we have regained most, if not all, of our pre-PPM ranked positions without changing formats. Although our audiences are smaller, our rank has returned and in many cases, that ranks us as No. 1, 2 or 3 in different markets.

The reduction in reported average quarter hour listening from diary to PPM is not, in my opinion, caused by racial bias, but rather, is due to the fact that the diary is a subjective tool that asks

participants to recall from memory what stations they listened to on the radio. In my experience, the diary service has a bias in favor of legacy stations or programs with a strong brand name or identity.

PPM is a more objective measurement tool that plays no favorites and allows all stations to compete for listeners on a level playing field. The PPM is without question a major improvement over the diary service. It gives broadcasters a type of granular and timely data that the diary system simply cannot provide.

For the first time, we can evaluate on a minute-by-minute basis the listening habits of our audience, when they tune in, how long they listen and when they switch to another radio station. This level of specificity allows us to respond almost in real time to listeners' tastes and show advertisers that we can attract listeners to our programming. That in turn translates into revenue for broadcasters.

As a result of the Internet, advertisers expect timely information to respond to ever changing customer preferences. No matter the media, advertisers expect to see how many eyes and ears are paying attention. PPM is doing that for radio by providing clear, actionable intelligence on radio's audience.

If PPM is not universally adopted, the radio industry is in danger of losing advertising dollars to other mass media and information platforms that have passive measurement systems. PPM contributes to advertisers' perception of the strength and value of brand conscious and brand loyal African-American consumers who have almost \$1 trillion to spend annually. In short, electronic measurement provides compelling evidence about the power of urban radio.

Through PPM, Radio One has been able to deliver reliable and credible measurement of our audience to our advertisers. Some have said that PPM should take a breather, especially until it is fully accredited by the Media Ratings Council. My response is an emphatic "no" as that would confuse advertisers who now rely on PPM and cause them to question the reliability of radio as an advertising medium. It would hurt the radio industry, not just Arbitron.

While we acknowledge that Arbitron has not created a perfect service, in my opinion we need to move forward with PPM, adapt to it, monitor Arbitron's progress and offer our suggestions and concerns, work with Arbitron to make it better and look forward to better times for all in the radio industry.

Thank you for this opportunity.

[The prepared statement of Mr. Liggins follows:]

Alfred C. Liggins, III
President and Chief Executive Officer
Radio One, Inc.
Testimony before the
Committee on Oversight and Government Reform
December 2, 2009

Thank you Chairman Towns, Ranking Member Issa and members of the Committee for providing me with this opportunity to discuss the importance of the Portable People Meter (PPM) and its impact on urban radio.

For those of you I have not met, let me introduce myself. I am Alfred Liggins, Chief Executive Officer of Radio One, Inc. Radio One is currently the largest media company in the United States that primarily serves African Americans. Our media platform includes radio, Internet, satellite and our nationally distributed cable channel, TV One.

As owner of 52 radio stations located in 16 urban markets, including Atlanta, Baltimore, Charlotte, Columbus, DC, Detroit, Houston, Indianapolis, Philadelphia, St. Louis, and Richmond, I want to express both my support and confidence in the future of urban radio in a PPM world.

My understanding is that during this hearing you are asking two questions: First, does PPM affect the diversity of radio? And, two, is it contributing to minority radio's decline? To both, I

can categorically say that I believe in both the short and long run, PPM is neither affecting the diversity of our airwaves nor contributing to a decline in minority radio.

Rather, what PPM has done is expose some poor choices made during the good times before this recession hit. Some broadcasters became overleveraged and perhaps expanded when they should not have and some broadcasters launched urban formatted stations in markets where there were already several established urban stations. And, while I support the request by some minority broadcasters to seek assistance from institutions that received TARP funds, I do not believe that the commercialization of PPM is to blame for the problems currently facing some minority broadcasters. Based on our own experience, PPM does not discriminate against minority-owned broadcasters or urban-formatted stations.

There are always short-term dislocations and a learning curve when a new technology is adopted. But PPM is the new reality and I would much rather get reality on the road now and keep it moving forward than to delay.

The heated dispute and controversy surrounding the commercialization of Arbitron's PPM result primarily from the fact that the PPM device, as compared to the paper diary, can have a downward impact on the average quarter hour rating or AQH which is a result of dramatically increased cume, meaning many more individuals are listening to the radio at any given time, combined with lower amounts of time spent listening. The AQH rating numbers with PPM are generally lower for most stations across the board in all markets, regardless of station format. Radio One has seen dramatic declines in its AQH ratings after PPM's commercialization in a

market. However, by designing our programming for a PPM world, including fine tuning our music, promotions and commercial breaks, and by using PPM to identify new opportunities to attract and hold listeners, Radio One has regained most, if not all of its pre-PPM rank positions without changing formats.

The reduction in reported AQH listening from diary to PPM is not, in my opinion, caused by racial bias but rather is due to the fact that the diary is a subjective tool that asks participants to recall from memory what stations they listened to on the radio and is prone to “rounding up” the amount of time spent listening to a given station as most listeners do not recall and write down all of the stations they actually listened to. The diary also provides an opportunity for listeners to “vote” for one’s favorite station or radio program regardless of whether the survey participant actually listened to the station during the diary survey period. In my experience, the diary service has a bias in favor of “legacy stations” or programs with a strong brand name or identity. PPM is a more objective measurement tool that plays no favorites and allows all stations to compete for listeners in the ratings estimates on a level playing field.

One area of the Committee’s focus is the advantage of PPM versus the diary system. The advantage, in one word is: Time. And as the old saying goes, “time is money.” The PPM is without question a major improvement over the diary service. Unlike the diary method PPM is a passive, electronic-based service. It gives broadcasters a type of granular and timely data that the diary system simply cannot provide. For the first time we can evaluate on a minute-by-minute basis the listening habits of our audience – when they tune in, how long they listen, and when they switch to another radio station. This level of specificity allows us to modify station

programming in a manner that reflects the reality of how radio is consumed. That makes a huge difference in our ability to respond to listeners' tastes – and show advertisers that we can attract listeners/consumers to our programming. That, in turn, translates into revenue for broadcasters, which is an obvious positive.

Let me give you an example of how the timeliness of PPM has worked in our favor. In one case we heavily invested in talent for a new morning drive show on one of our Philadelphia stations. Within a few weeks after the show premiered, we received PPM audience estimates that showed the station's morning ratings had dropped dramatically. The declining ratings contributed to our decision to cancel the show and return to music programming, which allowed the station to recover its competitive position. If the diary had still been currency in Philadelphia, rather than PPM, we would not have been able to adjust our programming and cut our losses as quickly because the diary is issued only on a quarterly basis. It could have easily taken eight to ten months before we felt confident enough to cancel the program.

Radio's future depends on electronic measurement. As a result of the Internet, advertisers expect timely information to respond to ever-changing customer preferences. No matter the media, advertisers expect to see how many eyes and ears are paying attention. And, to compete, radio needs to provide this data to its customers. PPM is doing that for radio by providing clear, actionable intelligence on radio's audience.

If PPM is not universally adopted the radio industry is in danger of losing advertising dollars to other mass-media entertainment/information platforms that have passive measurement systems.

PPM facilitates an efficient buy-sell process for radio advertising by enhancing advertisers' perception of the strength and value of brand conscious and brand loyal African American consumers who have almost a trillion dollars to spend annually. In short, electronic measurement provides compelling evidence about the power of urban radio.

Through PPM, Radio One has been able to deliver reliable and credible measurement of our audiences to our advertisers, something we take very seriously as the nation's leading urban broadcaster. Some have said that PPM should "take a breather" especially until it is fully accredited by the Media Ratings Council. My response is an emphatic no as that would confuse advertisers who now rely on PPM and cause them to question the reliability of radio as an advertising medium. It would hurt the radio industry, not just Arbitron.

Now I will acknowledge that, like many other broadcasters, we went through something of a bumpy start. Like other broadcasters, we also had to cope with the new metrics, and a new position in the marketplace. We have since learned to look beyond the initial apprehension and to focus on the new information provided by Arbitron to build our audiences and better serve the advertisers who count on us to reach the African American consumer.

Arbitron understands this apprehension and has been responsive by cooperating and engaging radio broadcasters to determine which improvements to the PPM service are priorities. Arbitron's commitment to continuously improving the PPM service is demonstrated by the modifications that have already been made to the service, and we are confident that Arbitron will continue to work with radio broadcasters and other interested parties to continue those

improvements. We, in turn, will continue to monitor Arbitron's progress and offer our suggestions and concerns.

At Radio One, we have created a successful track record that demonstrates urban radio can prosper with PPM. This service helps us remain competitive in an increasingly challenging media marketplace.

While we acknowledge that Arbitron has not created a perfect service, in my opinion, we need to move forward with PPM, adapt to it, work with Arbitron to make it better and look forward to better times for all in the radio industry.

Thank you for the opportunity to testify. I will be happy to answer your questions.

Chairman TOWNS. Thank you very much.

Let me thank all of you for your testimony. I also want to thank Arbitron for staying and listening to your testimony. Sometimes people come, testify, and then leave. I want to let them know I respect the fact that they are staying to listen to what you have to say.

It was so bad here at one point, when people would testify and then all the agency heads would leave, I was in the position to have the people talk first and the agencies come behind them. I notice we don't have to do that today. They are staying and listening to you. I want you to know I am impressed with that because they appear to be concerned about what you have to say. That, to me, means a lot.

Let me begin by asking, have any of your organizations approached Arbitron about problems with its methodology and undercounting minorities? If you did, what happened?

Mr. WARFIELD. Mr. Chairman, Inner City Broadcasting at one point owned a radio station in Philadelphia when Arbitron had a test market in Philadelphia with PPM. The issues and concerns we are still facing today, the under-representation of minorities, existed at that point. We had numerous discussions as an African-American broadcaster with Arbitron in Arbitron's offices and our corporate offices in New York City that unfortunately did not bring about the kind of improvements in the methodology we thought were necessary before it could be commercialized.

We specifically asked Arbitron not to commercialize the methodology until those issues had been addressed. Unfortunately, we are here today in 2009 still facing those challenges.

Chairman TOWNS. Yes, Ms. Pantanini.

Ms. PANTANINI. AHAA has met with Arbitron several times, one time in person and then had several communications with them as well. Arbitron's response has been to provide us with more data to better inform us of why they were taking the positions they were taking.

It is our sense that there was not a willingness to address the issues but more of a willingness to provide context on their position on the issues.

Mr. FLORES. We have had continual conversations with the good folks at Arbitron trying to see if we could work out whatever issues there are on the table. I can tell you that we have been in this fight for a little over 2 years and at least they are at the point where they are willing to listen to what the issues are.

Two years ago, they believed they had no problems at all with the PPM. It is a different mind set now.

Chairman TOWNS. Mr. Liggins, let me ask you this. Do you believe the MRC offers a fair and accurate assessment of audience measurement services?

Mr. LIGGINS. We are a member of the MRC. Our head of research, Amy Volks, sits on the MRC, so she is heavily involved. I am not personally involved since it is not my particular area of expertise, but from my involvement in this issue, I believe the MRC is a necessary body. I believe there are a lot of smart people working there to make sure that we have accurate measurement and research, but I think one of the problems that you have with the

MRC is it is a bit of a black box in that there aren't any defined benchmarks that a company like Arbitron can meet or hit in order to get accreditation. It makes it very difficult to create a business, roll out a business.

I think Mr. Skarzynski mentioned Nielsen and their electronic measurement system is still largely unaccredited because of the process and how long it takes and the fact that there is never a right answer. It is just a notification when we feel you have met the criteria.

If it was possible to have a goal that was set where Arbitron, if they hit these metrics, then they could get accredited, I think this would be a lot more practical and workable, but we are stuck with the system that we have. The MRC is what it is and as long as it is operated in that manner, which I am not questioning its validity, it is going to take a long time to get accreditation, if you will.

Chairman TOWNS. Let me ask the others, do you believe that Arbitron should continue trying to achieve accreditation through the MRC?

Mr. FLORES. Most definitely. In fact, we said from the get go, speaking for the PPM Coalition, should Arbitron get MRC accreditation in the markets in which we compete and operate radio stations, our grievances will go away. That has been a prime focus for us since the very beginning. We believe that is an important issue.

Ms. PANTANINI. As a small business and AHAA representing those small businesses, I will tell you that we don't have the resources available within our organizations to be able to do the kind of due diligence that the MRC provides. We believe that the MRC's expertise, the due diligence they provide and their focus on auditing is extremely important to ensure the validity of data moving forward.

Mr. WARFIELD. At ICBC, we are certainly, as Frank indicated, as members of the PPM Coalition, fully supportive of the MRC process and have made it very clear that our interest is to see the accreditation process completed by Arbitron. As Frank indicated, the concerns we have, we believe, would be addressed with successful completion of that accreditation process by Arbitron with the MRC.

Chairman TOWNS. Let me ask you this. What do you think accounts for this discrepancy?

Mr. WARFIELD. I think one of the main concerns we have is under representation of segments of our audience in the markets in which we operate in San Francisco and New York. The inconsistent delivery of a representative sample in different age groups, 12-plus, 18 to 34, 25 to 54 and we have asked for a representative sample. We have asked for that from the beginning but they have not been able to deliver that to give us a product we believe accurately represents our communities.

Mr. FLORES. For us, it is also even a question of country of origin which came up early on when we were looking at some findings of the PPM results in the New York area. When we asked the Arbitron representatives had they taken country of origin into account, they said, why would we? For people who operate in the Hispanic marketplace and provide radio programs for the Hispanic marketplace, you have to know how diverse it is. A Hispanic is not a Hispanic. A Mexican Hispanic is different than a Hispanic from

the Caribbean. Their music tastes are different, their language is slightly different. What works on the West Coast will not work on the East Coast. What works on the Southeast Coast might not necessarily work on the North East Coast. It is that diverse and that different.

If country of origin is not taken into account, then all you need is one format for the Hispanic and so be it. That is not the case. That is not the case at all. Even something we would think would be a give to them was a revelation. They looked at us and said, why would we care about that?

Now they have come around and all of a sudden they are examining country of origin. That is part of what they are looking into. That is quite a different stance than they had in the very beginning. I think that attributed to some of the initial results we were looking at to PPM.

Chairman TOWNS. Thank you very much.

I now yield to the ranking member.

Mr. ISSA. Thank you, Mr. Chairman.

I want to followup a little, Mr. Flores. My understanding is Arbitron now is asking country of origin and never did under the diary system. Is that also your understanding?

Mr. FLORES. Yes.

Mr. ISSA. That could, in fact, be part of why some people were disenchanted with the results is, to a certain extent, the more information you have, it has to change results. If results are going down or up, that could be a factor, right?

Mr. FLORES. It definitely could be a factor. Talking about results, there is an important factor that no one had talked about this morning. Someone mentioned the economy and how that has affected our business. As I mentioned in my opening testimony, there can be no doubt that the economy has affected our business.

When you have ratings that are 60 or 70 percent less than they were before and you have a depressed economy, and you have radio dollars that you are now fighting for that are less, and now you are not No. 1, No. 2 or No. 3 in our market, you are now No. 14 or No. 15 in our market, then you are doubly affected. It is not only the economy, it is the economic impact it has on the radio dollars coming in.

Mr. ISSA. Good point.

Mr. Warfield, if Arbitron's new PPM had led to a 40 percent increase in your ratings, would you be here today?

Mr. WARFIELD. I would like to have had that. We would still be wanting to understand why there was such dramatic change.

Mr. ISSA. That wasn't the question.

Mr. WARFIELD. Would I be here today? Probably would not be here.

Mr. ISSA. I suspect that the advertising public would be asking why the cost of advertising on your station was going up.

Can we all admit that if you get an exact number of minutes that people have a particular station playing, that will never indicate the value that radio being on will have to a particular advertiser. Numbers alone will never cover it?

Mr. WARFIELD. That is correct. Numbers alone don't cover that and we certainly do talk about and do sell the value of our audi-

ences. That is part of the selling process that our stations have always followed. The difficulty you have, and this is not about diary versus PPM, such a disproportionate reduction in audience across various formats that is not explainable, that is an argument that you really don't have a position for.

Mr. ISSA. I understand.

Mr. Liggins, I am going to go through a series of questions for you, one, because you are our witness. Eight people, we get one and you are it. Also because you deal with the same problems as Mr. Warfield, what have you done to show, at a given numeric rating, the value to the advertisers of what you have to offer? In other words, if you are just a commodity rated completely based on Arbitron's numbers and your revenue completely rises or falls with those numbers and nothing else, isn't it true that this would be devastating? I am not saying it isn't devastating but it would be devastating and there would be no recourse.

Don't you, in fact, have to deal with what is the value and how do you demonstrate that to the advertisers on an individual basis after they have looked at your Arbitron number?

Mr. LIGGINS. As your witness, I am hoping not to disappoint you.

Mr. ISSA. You are all of our witness. You are the one we chose.

Mr. LIGGINS. I am going to tell you the truth. If your ratings get cut in half, you can demonstrate value to advertisers but it will not anywhere near make up for the landslide and falling revenue that you will have.

On the margin, you can demonstrate value but advertising in this country is largely bought on cost per thousand as demonstrated by ratings, whether that is on the Internet, on television or whether that is an outdoor message. Yes, you can create value. Advertising is priced on supply and demand, so the more people who want your spots, the higher price you pay. If you actually perform well for a large number of businesses, the more businesses will want the ads and you can raise the rates.

The fact of the matter is, many advertisers don't even really track the response to you individually. You are part of a media mix. At the end of the day, if ratings drop, get cut in half, look, we have radio stations that have been hurt by PPM. In fact, I have a station here in Washington, DC, whose ratings weren't cut exactly in half, but probably close to 40 percent. Revenue is down 40 to 50 percent, but I had other radio stations that did better because it showed us having more audience under PPM than the diary did. Yet, I was a fan of more accurate ratings because I felt we would ultimately be better off hurt in some places but helped in many others. I think it is a misnomer to think showing value can actually make up for the dramatic loss of ratings.

Mr. ISSA. Let me go through one more round because the chairman has indulgence.

All four of you are basically here to tell us that minorities are being under-counted by PPM and that this problem is not diaries versus PPM but it is a problem and you want to get it right. I am going to ask each of you what you have done as industry leaders to get the correct count.

Politicians do polls or have polls done for them. Pollsters do not take raw numbers and say here is the result. Pollsters take raw

numbers and take various algorithms, if you will, that have historically shown to be accurate, particularly when they are rating them to when an election day is going to be. The people actually listening and buying products, that is your election day and the people being polled are Arbitron. That is really what we are dealing with, a poll versus what you say the reality is.

I rely on a pollster to tell me the difference between the number he asks and what it really means or will mean predictively on election day. I don't do it very often. I have done it enough.

What have you done as industry leaders to create some sort of a legitimate answer to Arbitron, here is what you said, here is what our research, not what your failures are because they have admitted they want to make it better. Mr. Liggins, I know they are working with you and others to try to make it better. What have you done to actually say here is your number, here is reality? I am seeing blank faces. Have any of you or collectively done anything so that you can come back and say here is the proof that our number of listeners is different? I am not trying to be hard. I think this is a soft ball.

Mr. WARFIELD. As I indicated, our company, Inner City Broadcasting, has two markets we knew were going to be impacted by Arbitron because our other two markets, Jackson, MS and Columbia, SC, are in the 83 and 120 and are not likely in our lifetime to get PPM measurement.

We have worked very closely with Arbitron to understand the underlying methodology here and why the results were where they were. We have seen consistently the challenges that are there.

Arbitron offered, for example, to work with our company and work with other minority broadcasters who also in looking at the numbers, just looking at the numbers, realized we were disproportionately impacted by this methodology even before they rolled it out.

There were offers they made, what about if we do some type of engagement metric or engagement study which tries to address this issue of loyalty that seems to have been lost in PPM at a cost to the broadcasters who quite honestly we were being asked to pay 65 percent more with this methodology with less results. That was something at that point that was premature because we couldn't get a representative sample.

We reached out to other broadcasters to ask them to look at the results of their marketplace and what was going on. Let us try to understand, for example, what is the story of the African-American consumer and African-American radio stations in this new PPM world. There was no story to tell, unfortunately, without understanding we are talking about a representative panel which in 2009 we still have not been able to get.

As a broadcaster, we have reached out with the members of the PPM Coalition who, as they started to roll this out in pre-currency in New York City, suddenly got to understand what we had been seeing in some markets.

Mr. ISSA. I have to apologize, Mr. Warfield, but the question is more narrow than that. We can't deal with difference between loyalty, etc., in some way from here and neither can Arbitron. What they can do and what I hope we are helpful in here on the dais

because we are on a bipartisan basis very concerned, is if in fact your real effective numbers should be weighted in some way to where an advertiser, and I used to be an advertiser, can look and say, wait a second, the comparative value of being on one of your stations or one of any of your stations is an eight, not a six, and I am looking at a rate, assuming I am going to pay so much per million, you can probably make a lot of arguments about your listeners being better than that guy's listeners.

That is what I was leading to with Mr. Liggins, but from our standpoint if the effective number because of under-count, who is willing to carry PPM, any of that, if it is off, what were you asking yourselves to do or Arbitron who has stayed here and really I believe wants to get the right number regardless of everything being said at times. What have you done to say OK, here is how we could analytically come up with a rate and we would accept that adjusted rate? In other words, the scored rate is here, the skew is this. It doesn't seem like it is that hard.

I did direct marketing at one time. We tagged 800 numbers, so every single ad if it went out on a different station had a different 800 number. People used the 800 line, we verified what our return on investment was. That allowed us to know as I said in my opening that BET, and I didn't say in my opening, the Tune Network, out-performed on a per dollar of advertising dollar many of the other competitors in our buy. We did that because we wanted to know. That is an advertiser.

You are the people who want to sell me in my old profession, what are you doing to work with Arbitron or asking us to ask them to do to get that number right so the number doesn't have to be direct market checked by somebody like me but you and the rating agency can come out with an accurate rate.

This is no different than we ask Standard and Poor's, by the way, when they had them here and we wanted to know why junk was being rated AAA. We are just as concerned here.

Mr. FLORES. Let me see if I can answer that in a very analytical way.

It would be nice if we could afford to find another service to come in and give us what we would consider more accurate ratings, but at this point in time, with the exorbitant amount of money that we have to pay on our current contracts to Arbitron and the current economic conditions of radio stations, we cannot afford to do so. We rely on pushing as much as we can as many buttons as we can in front of us, including the MRC, including meetings with Arbitron, to get that because we can't afford an alternate service to come in and give us that. We can't. It is as simple as that.

If we get some leverage on our contract, had we not signed such onerous contracts that don't allow us to do that, we might be able to do so. We might be able to get someone that could step up to a monopoly and say, "here is a different form of reading this marketplace and here, you have the ability and the opportunity to go and seek where your ratings really are."

Mr. ISSA. Mr. Liggins.

Mr. LIGGINS. Arbitron has put together a committee to work on this but some metric that isolated sort of passive exposure to what was really active listening would actually help minority targeted

formats. The reason these minority radio stations, including our targeted radio stations, had such high ratings in the diary is because the diary keeper would say "I listened to WKYS" and just draw a line that I listened all day. Actually, minorities do listen to radio longer. They are more engaged, they take it more seriously.

If you were able to isolate that electronically somehow, then you could show a different value. Actually, you would discredit the audience of the easy listening station and this happens in PPM. The easy listening station could be No. 2 with teens 12 to 17 playing beautiful music. We know that is not the case, but if meters happened to be in an environment carried by a teenager where they are exposed, that is what you get.

I think they are working on that. I know we are pushing for that. That would be extraordinarily helpful, leading back to your other question, in presenting value.

Mr. FLORES. Can I also say one more thing because I think there is something that hasn't been said here that I think needs to be said.

Even if the playing field were right, even if it is PPM or diary, because I can speak about diary and I can tell you when the playing field was right in the New York area, I worked for Infinity Broadcasting that had Howard Stern in the morning. I was the Director of Sales before I came to SBS. Howard left that radio station at the tail end of 2005. All of 2006 in the New York area, the No. 1 morning show was a Spanish language radio station owned and operated by us.

As me, did we get the same rates? I can tell you emphatically, not even a quarter of the same rates that my ex radio station had. Our audiences are already discounted. Our audiences are already not seen with the same quality, of the same rating, of the same audiences in other general market radio stations. To add insult to injury, put us at 50, 60 or 75 percent less in rating and what do you get?

Mr. ISSA. Mr. Chairman, as we close, I found both panels very informative. I intend to write a letter to Mr. Skarzynski and Arbitron asking them to come back to us and tell us what they could do to do some of this analytical analyses without additional burden on our broadcasters, particularly minority broadcasters.

I also would like to see those innovations and I would like to see as much information as the committee can request and Arbitron can give us of side-by-side comparisons when a diary was being filled out and someone was carrying the PPM device so that we could have a closure to all of the questions that I think developed here today on electronic versus diary. Hopefully, we can be constructive for the minority-owned stations and, to be honest, for all of the rating stations because if you get it right, we get it right for everyone.

Mr. Chairman, I want to thank you for holding an important, long overdue hearing and for putting the time and effort into this. I yield back.

Chairman TOWNS. Thank you very much.

Before we close, Mr. Liggins you said that Radio One was able to regain its market share by changing programming to fit the

PPM world. What did you mean by that? I tried not to ask that. I tried to see if I could figure it out on my own.

Mr. LIGGINS. That is fair. One example is that during the diary method, because the diary is done in quarter hours, programmers thought the best way to get the highest ratings would be to stack all of your commercials all of once and run 10 of them at the same time with very long what are called stop sets so you could sweep music for 40 minutes. You are kind of running one 20 minute block that is 80 percent commercials, then you have a 40 minute block that is commercial free.

The fact of the matter is we found that does the exact opposite. In PPM, you are better off having more stop sets with actually fewer commercials in them.

One of the things you are also seeing in PPM is that the talk show hosts, the Hannitys, the Rush Limbaughs, I am sure the Democrats will be happy to hear this, actually have less audience. They are still loud and noisy and make a big impact but the fact of the matter is their audiences in PPM have dropped dramatically. I am sure their ad revenues are following as well.

That says that talk, no matter how big a personality you are, if it is not absolutely entertaining is a death knoll, so you have to be very careful about what your air personalities are saying. Some personalities are better than others.

Also PPM will show you that people actually do listen to football games on the radio and audiences spike. You can tell which bits work. I don't know how many of you listen to the Tom Joyner Morning Show, but you can actually go through Tom Joyner's hour and figure out whether Huggie Low Down or the little known black history fact or the Black America Web News, which one of those are draws and which are turnoffs. You adjust your programming dramatically. In fact, Tom has actually reformatted almost his entire show over the last 2 years because of the information we found out from PPM.

Chairman TOWNS. Thank you.

Mr. WARFIELD. Mr. Chairman, one thing I would like to say about that is as Alfred said, many of us use the data. On the one hand, the Arbitron data is the only data we have available to use. We do have to use that data and we do pay for that service.

On the other hand, as Mr. Liggins just indicated, we are making those types of changes on the air whether we like that or not. Unfortunately, as he indicated, you are taking resources away from the community and in many cases, you are taking programs that were previously very successful off the air.

It still does not cover the reality here that in this PPM world, formats that have taken the greatest hit, the greatest decline in ratings consistently, market after market, has been Spanish and urban radio station formats. It was stated this morning that these formats still perform well. They do at a much larger decline in their currency average quarter hour than any other formats that have been affected by this methodology.

Mr. FLORES. Can I say one last thing. I find it really interesting that in this day and age when you pick up a newspaper and find out the exploding segments of our society happen to be Hispanic and new arrival Hispanic, that Hispanic listening across the board

is down dramatically. These people are not coming in from Du-
buque or Montana, these people are coming in from countries
where they only speak Spanish. They are arriving here with no
English skills whatsoever. I know that our audience should be in-
creasing in numbers that are great and PPM shows it to be just
the opposite. That can't be. Logic tells me that is not right. I can't
accept that. There has to be a disconnect some place.

Mr. LIGGINS. With the new census, there should be a rebalancing
of the populations which will flow through to Arbitron's data base.
Hopefully, that will help Black and Hispanic formatted stations. In
Houston, TX, because of [Hurricane] Katrina, we think the Black
population has probably gone from 16.5 percent to 20 percent. We
are hopeful that is what the census will show and we will benefit
from that. Hopefully, you guys will too.

Ms. PANTANINI. I agree, however the issue at hand is the audi-
ence is currently not represented for the size of the segments rep-
resented today and the census isn't going to come out for another
2 years before we actually get the data. We are way behind the 8
ball.

From an advertiser's point of view, if it is not working, it is very
difficult to get an advertiser to come back into the marketplace. If
you can't prove success today to an advertiser and a return on in-
vestment today, they are not going to be back tomorrow. That is
the problem we face.

We have radio stations we know have historically performed very
well in the marketplace. They don't have the numbers. Without the
numbers, we can't justify them being on a buy. Without them being
on a buy, we have ineffective plans in market. It is very difficult
to convince advertisers today to spend money in minority audi-
ences. When you finally make that effort and get them to spend the
money and they don't see the results, they are not coming back.

Mr. FLORES. As far as the new arrivals, how successful could you
possibly be trying to convince them to wear some sort of low jack
device on them when they come from countries where they don't
trust their own government. Think how successful you are going to
be to get people to do that. May be your panels or your samples
are going to represent more English dominant Hispanics than
Spanish dominant Hispanics. That might be a problem for all His-
panic radio stations because that is who we serve.

Chairman TOWNS. Thank you very much.

Let me thank both panels of witnesses and I want to thank the
ranking member and all the Members who attended this hearing
today.

Before we adjourn, I must say today's hearing has demonstrated
the ineffective process currently in place to ensure the accuracy of
media ratings services. I remain gravely concerned about the fu-
ture of minority-owned, targeted radio stations if Arbitron does not
act quickly to correct these problems.

Minorities have battled over the past 30 years to obtain just 2
percent of the radio stations they now have, 2 percent. We are on
the brink of losing much of that progress. The Congress should not
allow this to happen. The MRC was created to ensure media rat-
ings are fair and accurate. However, Arbitron seems to take the
MRC's code of conduct as a mere suggestion. They feel free to ig-

nore MRC's recommendations and just move on. This approach must change.

I am prepared to introduce legislation if necessary which protects both the consumer and all radio and television competitors. I hope I don't have to do that. I hope we can work things out. The ranking member suggested that we have some further discussions and dialog in terms of how we might be able to work together to resolve some of these issues. I hope we can do that.

However, I urge all the participants involved in this issue, including the MRC and the FCC, to work during the next month to reach a solution to this problem. The very survival of small and minority radio is at stake. I want to see a plan of action and a realistic timetable as the ranking member also suggested developed over the next 30 days to correct this unsustainable situation.

After that point, I will look to see if sufficient progress has been made or whether the Congress will need to step in. We don't want to step in and I hope we don't have to step in, but I want you to know that I am prepared to do whatever it takes to get an acceptable resolution to this problem.

Again, let me thank all of the witnesses. I look forward to working with you because I really feel we can do better. I am always for fairness. I think what we see and hear is not fairness.

Thank you so much for coming.

The committee is now adjourned.

[Whereupon, at 2:41 p.m., the committee was adjourned.]

[The prepared statement of Hon. Gerald E. Connolly and additional information submitted for the hearing record follow:]

Opening Statement of Congressman Gerald E. Connolly
"Will Arbitron's Personal People Meter Silence Minority Radio Stations?"
Committee on Oversight and Government Reform
December 2nd, 2009

Thank you, Chairman Towns for holding this important hearing on radio station ratings. We need to protect our constituents' access to a broad range of media outlets, because that diversity is important for our democracy. Today, what the founding fathers may have called a "press" is a vibrant collection of media outlets, from newspapers to radio to the internet. Protecting the freedom of the press entails not merely a lack of censorship but also oversight of non-competitive markets in which economic forces could stifle our constituents' self expression through local press.

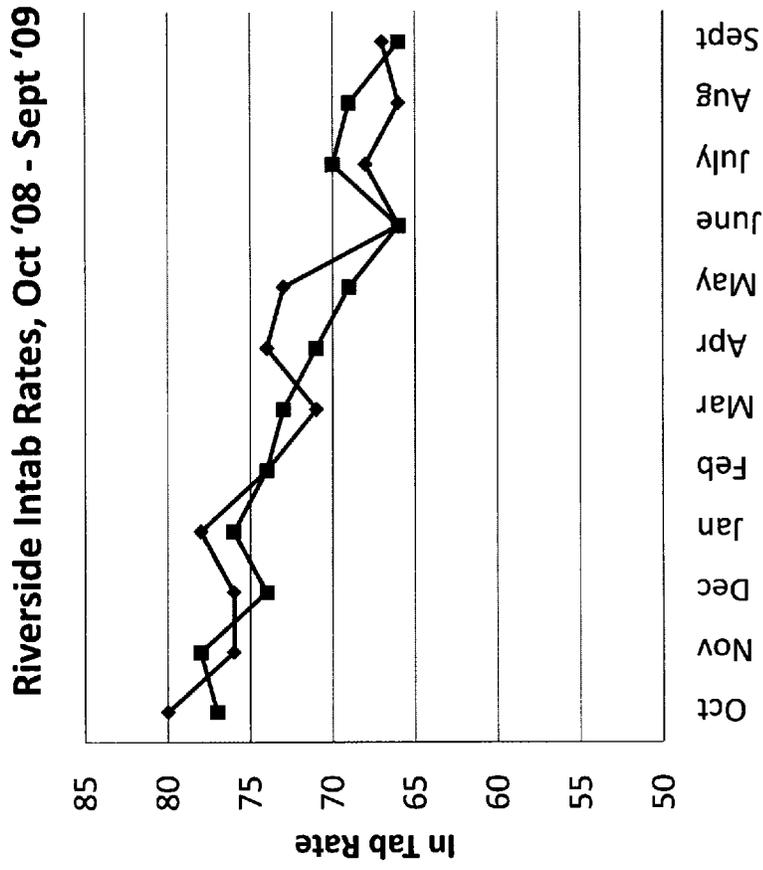
A monopoly in the radio market has posed a potential risk to the health of that media outlet. Radio stations live and die through advertising revenue. Radio ratings, for which the company Arbitron controls 97% of the market, are the primary determinant of radio stations' revenue, since advertisers base their pricing decisions on radio ratings. If Arbitron issues ratings that are inaccurate, it could push local radio stations out of business even if those radio stations are actually very popular among our constituents. Based on the testimony we will hear today, it appears that Arbitron has collected unrepresentative samples of people to wear its Personal People Meter, which records the stations to which people listen, resulting in possibly inaccurate radio ratings that depress advertising income for minority radio stations.

As a Washington Post article that I will submit for the record demonstrates, minority radio stations in the National Capital Region have already fallen prey to Arbitron's poor sampling methodology and suffered precipitous declines in ratings as a result. Stations like WHUR 96.3, WMMJ 102.3, and El Zol 99.1 may have a basis on which to claim they have been victimized by inaccurate ratings, imperiling my constituents' ability to listen to the radio stations of their choice.

In a competitive marketplace, an unrepresentative sample of listeners and associated inaccurate ratings might not pose a long term threat to our constituents' ability to enjoy their favored media outlets. However, in this case Arbitron has no competitors, so it is extremely unlikely that advertisers will be able to find an alternative, more accurate rating system.

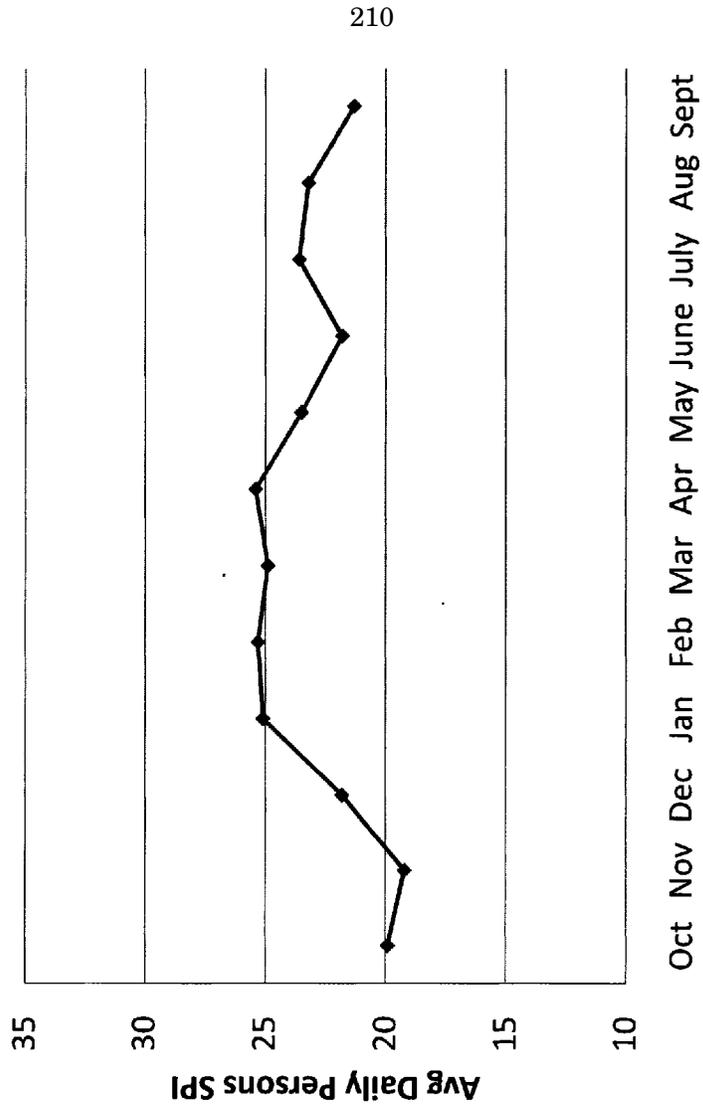
During the last great economic crisis President Roosevelt noted that monopolistic industries can pose as great a threat to liberty as the autocrats against whom American colonists rebelled in another era. That threat has become greater in intervening years, as a combination of technology and anti-government ideology has allowed some monopolistic companies to tighten their control over certain parts of our marketplace. Radio ratings are just one small part of that marketplace, but monopolistic control over ratings poses a threat to the vibrancy of our democratic discourse.

I applaud Chairman Towns for holding this hearing, and hope that we can do our part to protect freedom of the press from inefficiencies of monopoly.



Riverside recommended for accreditation in Sept. 2008

Riverside SPI Trends, Oct '08 - Sept '09



Riverside recommended for accreditation in Sept. 2008

New York, NY Radio Stations:

Precurrency PPM Data was collected October 2007 to August 2008

The PPM became currency in September 2008

The last Diary Report was released in Spring 2008

The ranking and average quarter hour persons data listed below are based on the following measured demographic groups and dayparts:
 Measured Demographic Group: Persons 12+
 Measured Daypart: Monday - Sunday, 6 AM to 12AM

Read the PPM numbers under Average Quarter Hour Persons in the following manner:

A negative number indicates the amount of numerical decrease between the given PPM month and the Spring '08 Diary (the last Diary)
 A number followed by a plus sign (+) indicates the amount of numerical increase between the given PPM month and the Spring '08 Diary (the last Diary)
 Numbers with no (-) or (+) sign attached to them indicate that there was no Spring '08 Diary data available for comparison.

(t) indicates that the station is tied with at least one other station with respect to rank
 "No data," in most instances, indicates that a station did not rank among the top 42 stations in the New York radio market.
 However, "No data" may also indicate that a station refused to encode its transmissions or became insolvent.
 The Committee was unable to contact all stations with "No Data" entries in order to ascertain the specific cause.
 The red-highlighted cells illustrate the changes in rankings following the PPM's introduction

Chart Key:	Talk radio/News/Sports Radio (TALK)
Urban/Urban Adult contemporary/Urban Talk (U/UA)	Oldies (OLD)
Spanish language/Spanish music (SPAN)	Smooth Jazz (JAZZ)
Top 40 (T-40)	Classic Rock (CR)
Alternative Rock/Contemporary Rock (AR/CONR)	Country (CY)
Adult Contemporary (AC)	Religious/Christian Contemporary (REL)
Classical Music (CLAS)	Public Radio/The Arts/Education (PUB)
Asian (ASIAN)	Children (CHILD)
World Ethnic (WETH)	

Radio Market Report Dates										Radio Market Report Dates												
Average Quarter Hour Persons (The Basis for Station Ratings)					Average Quarter Hour Station Rankings					Average Quarter Hour Station Rankings					Average Quarter Hour Station Rankings							
PPM	PPM	PPM	PPM	PPM	Diary	Diary	Diary	Diary	Diary	Stations	Diary	Diary	Diary	Diary	Diary	Diary	Diary	Diary	Diary	Diary		
Oct '09	Oct '08	Sept '08	Aug '08	July '08	Winter '08	Spring '08	Summer '08	Fall '07	Fall '07	WLTW - FM (AC)	Winter '07	Spring '07	Summer '07	Fall '07	Winter '07	Spring '07	Summer '07	Fall '07	Winter '07	Spring '07	Summer '07	Fall '07
9,900 +	-15,500	-15,400	-15,400	-11,800	99,800	117,900	130,400	130,400	130,400	WTKR - FM (AC)	#1	#1	#1	#1	#1	#1	#1	#1	#1	#1	#1	#1
-45,100	-25,500	-31,800	-33,700	-32,300	91,500	36,900	109,500	109,500	109,500	WISN - FM (SPAN)	#2	#6	#5	#9	#8	#9	#6	#10	#10	#6	#10	#10
-54,400	-52,200	-46,500	-44,100	-42,100	109,800	89,500	102,200	102,200	102,200	WRKS - FM (UUA)	#3	#5	#1	#5	#6	#6	#5	#8	#8	#5	#9	#8
-40,600	-23,700	-22,000	-27,000	-32,400	108,700	115,300	101,500	101,500	101,500	WRTZ - FM (T-40)	#4	#2	#2	#2	#2	#2	#1	#1	#1	#1	#1	#5
-46,800	-45,400	-42,500	-52,700	-52,700	97,800	95,500	96,100	96,100	96,100	WBLS - FM (UUA)	#5	#4	#4	#4	#4	#4	#12	#11	#11	#12	#11	#10
-35,800	-30,300	-32,400	-28,700	-28,700	82,500	78,500	88,600	88,600	88,600	WCHT - FM (UUA)	#6	#10	#8	#11	#13	#13	#13	#12	#12	#13	#12	#15
13,200 +	-4,300	-3,900	-10,000	-8,700	77,900	84,900	86,500	86,500	86,500	WCBS - FM (OLD)	#7	#8	#11	#4	#4	#4	#3 (t)	#4	#4	#4	#4	#2
-45,100	-35,700	-40,400	-43,900	-42,300	78,200	85,300	86,200	86,200	86,200	WVBT - FM (SPAN)	#8 (t)	#7	#10	#18	#18	#18	#18	#19	#19	#18	#19	#19
-26,100	-12,900	-24,800	-28,700	-28,100	87,800	96,900	86,200	86,200	86,200	WINS - AM (TALK)	#8 (t)	#3	#6	#8	#9	#9	#7	#7	#7	#7	#3	#7
-28,200	-16,400	-18,200	-20,500	-23,500	75,900	73,000	77,100	77,100	77,100	WWPR - FM (UUA)	#10	#12	#12	#12	#11	#11	#16	#8	#8	#8	#14	#14
-26,500	-12,900	-6,500	-13,000	-18,600	80,500	82,900	77,000	77,000	77,000	WABC - AM (TALK)	#11	#9	#9	#7	#5	#5	#3 (t)	#5	#9	#5	#9	#9
10,000 +	1,800 +	5,200 +	5,700 +	9,400 +	62,500	73,800	65,000	65,000	65,000	WAXQ - FM (CR)	#12	#11	#14	#3	#3	#3	#5	#7	#3	#5	#7	#3
-12,600	-17,600	-9,600	-8,000	-10,200	57,700	48,700	63,800	63,800	63,800	WWFS - FM (AC)	#13	#19	#16	#13	#12	#12	#14	#17	#16	#14	#17	#16
No data	No Data	No Data	No Data	No Data	No Data	No Data	63,600	63,600	63,600	WOOD - FM (JAZZ)	#14	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data
3,400 +	-4,200	1,300 +	3,700 +	6,600 +	56,600	67,400	61,300	61,300	61,300	WKUO - FM (UUA)	#15	#14	#15	#6	#7	#7	#6	#10	#6	#6	#10	#6
-4,600	-10,000	-10,700	-8,200	-8,900	52,500	54,300	60,700	60,700	60,700	WFAN - AM (TALK)	#16	#17	#18 (t)	#16	#16	#16	#17	#15 (t)	#13	#17	#15 (t)	#13
5,300 +	-13,100	-6,400	-7,400	-7,100	63,600	55,800	58,700	58,700	58,700	WCBS - AM (TALK)	#17	#16	#13	#10	#10	#10	#11	#13	#4	#11	#13	#4
-47,600	-17,500	-22,700	-18,500	-16,800	48,700	56,000	56,700	56,700	56,700	WOXR - FM (CLAS)	#18	#15	#20	#19	#19	#19	#20	#19	#67 (t)	#20	#19	#67 (t)
-14,000	-15,100	-9,800	-7,800	-12,300	52,500	50,400	52,600	52,600	52,600	WOR - AM (TALK)	#19	#18	#18 (t)	#17	#15	#15	#16	#18	#17	#16	#18	#17
-4,800	-10,100	-9,900	-12,400	-8,200	53,200	46,600	46,400	46,400	46,400	WPLJ - FM (AC)	#20	#20	#17	#15	#17	#17	#15	#14	#11 (t)	#15	#14	#11 (t)

Radio Market Report Dates												
Average Quarter Hour Persons (The Basis for Station Ratings)						Average Quarter Hour Station Rankings						
PPM:	PPM:	PPM:	PPM:	Diary:	Diary:	PPM:	PPM:	PPM:	PPM:	Diary:	Diary:	
Oct. '09	Oct. '08	Sept. '08	Aug. '08	July '08	Spring '08	Winter '08	Fall '07	July '08	Aug. '08	Sept. '08	Oct. '08	
11,700	15,400	12,300	11,600	12,900	No Data	No Data	No Data	No Data	# 28	# 30	# 29	# 28
5,400	8,100	9,100	8,200	7,900	No Data	No Data	No Data	# 36 (†)	# 36	# 34	# 38	# 41
5,300	8,700	4,800	8,000	No Data	No Data	No Data	No Data	No Data	No Data	# 37	# 46 (†)	# 42
3,500	5,400	6,000	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	# 40	# 50
11,600	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	# 29
Stations												
WNYC - AM												
(PUB)												
WBGO - FM												
(JAZZ)												
WDHA - FM												
(AR/COWR)												
WJLK - FM												
(AC)												
WNYZ - FM												
(U/UA)												

* Formerly WQCD

Los Angeles, CA Radio Stations:

Precurrency PPM Data was collected July 2008 to August 2008

The PPM became currency in September 2008

The last Diary Report was released in Spring 2008

The ranking and average quarter hour persons data listed below are based on the following measured demographic groups and dayparts:
 Measured Demographic Group: Persons 12+
 Measured Daypart: Monday - Sunday, 6 AM to 12AM

Read the PPM numbers under Average Quarter Hour Persons in the following manner:

A negative number indicates the amount of numerical decrease between the given PPM month and the Spring '08 Diary (the last Diary)
 A number followed by a plus sign (+) indicates the amount of numerical increase between the given PPM month and the Spring '08 Diary (the last Diary)
 Numbers with no (-) or (+) sign attached to them indicate that there was no Spring '08 Diary data available for comparison.

(t) indicates that the station is tied with at least one other station with respect to rank

"No data," in most instances, indicates that a station did not rank among the top 42 stations in the Los Angeles radio market
 However, "No data" may also indicate that a station refused to encode its transmissions or became insolvent

The Committee was unable to contact all stations with "No Data" entries in order to ascertain the specific cause

The red-highlighted cells illustrate the changes in rankings following the PPM's introduction

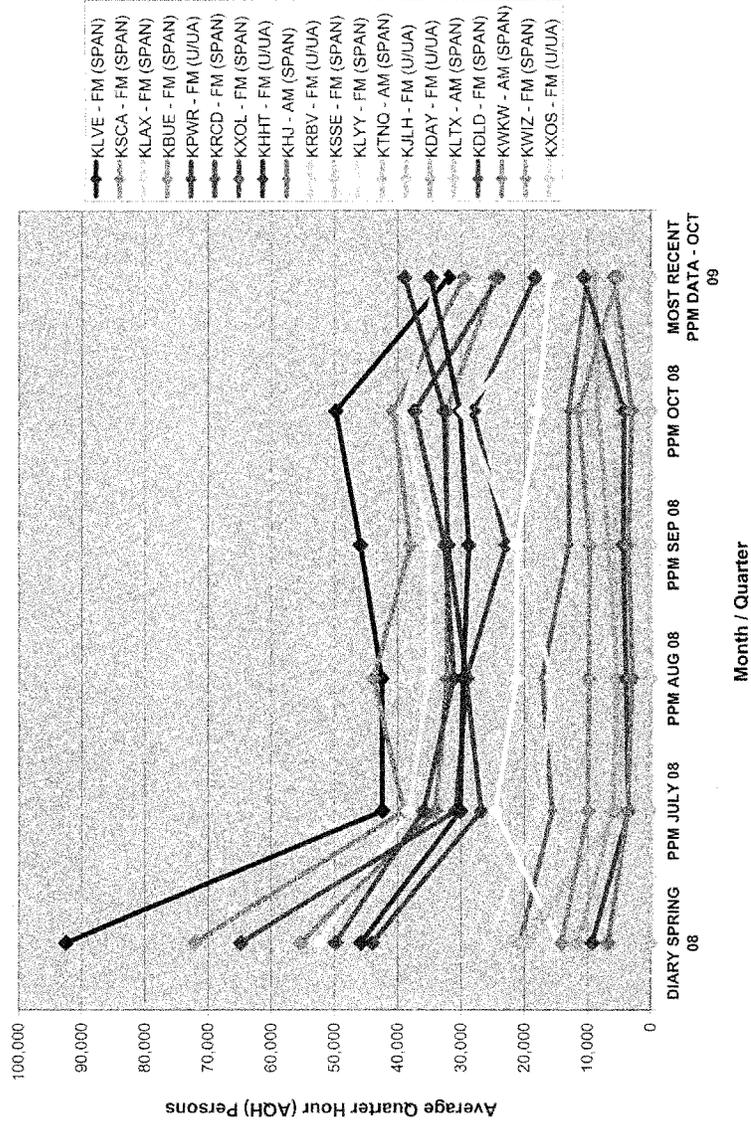
Chart Key:	Talk radio/News/Sports Radio (TALK)
Urban/Urban Adult contemporary/Urban Talk (U/UA)	Oldies (OLD)
Spanish language/Spanish music (SPAN)	Smooth Jazz (JAZZ)
Top 40 (T-40)	Classic Rock (CR)
Alternative Rock/Contemporary Rock (AR/CONR)	Country (CY)
Adult Contemporary (AC)	Religious/Christian Contemporary (REL)
Classical Music (CLAS)	Public Radio/The Arts/Education (PUB)
Asian (ASIAN)	Children (CHILD)
World Ethnic (WETH)	

Radio Market Report Dates										Radio Market Report Dates										
Average Quarter Hour Persons (The Basis for Station Ratings)					Average Quarter Hour Ratings					Average Quarter Hour Station Rankings					Average Quarter Hour Station Rankings					
PPM	Oct '08	Sept '08	Aug '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
1,700	-3,800	-3,300	-3,980	-3,200	6,800	8,800	8,800	6,300	6,300	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
9,800	-2,700	-4,500	-4,480	-4,200	14,100	14,000	5,800	5,800	5,800	Fall '07	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
38,400	No data	No data	No data	No data	No data	No data	No data	No data	No data	Winter '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
25,400	19,600	20,400	20,400	21,700	No data	No data	No data	No data	No data	Spring '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
20,400	22,300	18,500	19,900	17,600	No data	No data	No data	No data	No data	Summer '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
20,000	No data	No data	No data	No data	No data	No data	No data	No data	No data	Fall '07	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
4,500 +	-600	-2,900	-500	-3,500	12,300	No data	No data	No data	No data	Winter '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
11,700	7,300	6,900	6,500	8,800	No data	No data	No data	No data	No data	Spring '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
7,700	7,000	9,800	9,500	11,400	No data	No data	No data	No data	No data	Summer '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
7,400	4,100	5,000	6,900	3,600	No data	No data	No data	No data	No data	Fall '07	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
-1,600	-2,500	-2,400	-2,300	-1,500	5,500	No data	No data	No data	No data	Winter '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary
1,500	6,200	6,500	5,800	6,200	No data	No data	No data	No data	No data	Spring '08	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> <td>PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td> </td>	Oct '08	Sept '08	July '08	Diary	PPM <td>Oct '08</td> <td>Sept '08</td> <td>July '08</td> <td>Diary</td>	Oct '08	Sept '08	July '08	Diary

* Radio One sold KREY to Bonneville on April 8, 2008. It is now a classic rock station with new call letters "KSWD."
 ** On February 20, 2009, KLSX was rebranded as a 97.1 Amp Radio, a Top 40s station

Radio Market Report Dates										Radio Market Report Dates										
Average Quarter Hour Persons (The Basis for Station Ratings)					Average Quarter Hour Ratings					Average Quarter Hour Station Rankings					Average Quarter Hour Station Rankings					
PPM	Oct '08	Sept '08	Aug '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
1,700	-3,800	-3,300	-3,980	-3,200	6,800	8,800	8,800	6,300	6,300	Diary	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
9,800	-2,700	-4,500	-4,480	-4,200	14,100	14,000	5,800	5,800	5,800	Fall '07	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
38,400	No data	No data	No data	No data	No data	No data	No data	No data	No data	Winter '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
25,400	19,600	20,400	20,400	21,700	No data	No data	No data	No data	No data	Spring '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
20,400	22,300	18,500	19,900	17,600	No data	No data	No data	No data	No data	Summer '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
20,000	No data	No data	No data	No data	No data	No data	No data	No data	No data	Fall '07	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
4,500 +	-600	-2,900	-500	-3,500	12,300	No data	No data	No data	No data	Winter '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
11,700	7,300	6,900	6,500	8,800	No data	No data	No data	No data	No data	Spring '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
7,700	7,000	9,800	9,500	11,400	No data	No data	No data	No data	No data	Summer '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
7,400	4,100	5,000	6,900	3,600	No data	No data	No data	No data	No data	Fall '07	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
-1,600	-2,500	-2,400	-2,300	-1,500	5,500	No data	No data	No data	No data	Winter '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary
1,500	6,200	6,500	5,800	6,200	No data	No data	No data	No data	No data	Spring '08	PPM	Oct '08	Sept '08	July '08	Diary	PPM	Oct '08	Sept '08	July '08	Diary

Los Angeles Market - Minority Radio Station Trends



Dallas, TX Radio Stations:

Precurrency PPM Data was collected October 2008 to November 2008

The PPM became currency in December 2008

The last Diary Report was released in Summer 2008

The ranking and average quarter hour persons data listed below are based on the following measured demographic groups and dayparts:

Measured Demographic Group: Persons 12+
 Measured Daypart: Monday - Sunday, 6 AM to 12AM

Read the PPM numbers under Average Quarter Hour Persons in the following manner:

A negative number indicates the amount of numerical decrease between the given PPM month and the Summer '08 Diary (the last Diary)
 A number followed by a plus sign (+) indicates the amount of numerical increase between the given PPM month and the Summer '08 Diary (the last Diary)
 Numbers with no (-) or (+) sign attached to them indicate that there was no Summer '08 Diary data available for comparison.

(t) indicates that the station is tied with at least one other station with respect to rank
 "No data," in most instances, indicates that a station did not rank among the top 42 stations in the Dallas radio market.
 However, "No data" may also indicate that a station refused to encode its transmissions or became insolvent.
 The Committee was unable to contact all stations with "No Data" entries in order to ascertain the specific cause.
 The red-highlighted cells illustrate the changes in rankings following the PPM's introduction

Chart Key:	Talk radio/News/Sports Radio (TALK)
Urban/Urban Adult contemporary/Urban Talk (UUA)	Oldies (OLD)
Spanish language/Spanish music (SPAN)	Smooth Jazz (JAZZ)
Top 40 (T-40)	Classic Rock (CR)
Alternative Rock/Contemporary Rock (AR/CONR)	Country (CY)
Adult Contemporary (AC)	Religious/Christian Contemporary (REL)
Classical Music (CLAS)	Public Radio/The Arts/Education (PUB)
Asian (ASIAN)	Children (CHILD)
World Ethnic (WETH)	

Radio Market Report Dates									
Average Quarter Hour Persons (The Basis for Station Ratings)					Average Quarter Hour Station Rankings				
PPM:	PPM:	PPM:	PPM:	Diary:	Stations	Diary:	Diary:	Diary:	Diary:
Oct '09	Jan '09	Dec '08	Nov '08	Oct '08	Spring '08	Summer '08	Spring '08	Summer '08	Winter '08
-1,800	900	1,800 +	-500	-1,200	11,600	9,000	12,700	12,700	KRKY - FM (SPAN)
-3,700	-2,500	-3,200	-2,200	-2,000	11,400	12,500	11,100	11,100	KESN - FM (TALK)
-2,200	-1,300	-1,100	-100	-400	8,300	7,600	10,300	10,300	KLIF - AM (TALK)
4,700 +	500 +	-900	100 +	200 +	8,400	11,300	10,300	10,300	KMYC - FM (SPAN)
-5,900	-6,800	-7,000	-7,300	-6,700	13,100	12,700	9,900	9,900	WRR - FM (CLAS)
No Data	No Data	-2,900	-3,400	-2,600	11,200	13,600	9,100	9,100	KLLI - FM (TALK)
-800	-3,900	-2,700	-1,900	-2,100	7,900	9,600	8,600	8,600	KFZO - FM (SPAN)
-600	-3,900	-3,700	-500	500 +	11,200	10,600	8,500	8,500	KZZA - FM (SPAN)
No Data	equal	300 +	900 +	1,400 +	6,100	7,000	8,300	8,300	KDBN - FM (ARICONS)
-4,500	-4,500	-4,600	-4,900	-4,900	5,800	8,000	8,300	8,300	KHVN - AM (REL)
400 +	2,500 +	3,600 +	6,200 +	4,900 +	7,800	11,300	8,200	8,200	KNOR - FM (SPAN)
2,900 +	equal	800 +	1,100 +	2,800 +	8,200	7,700	7,900	7,900	KBSC - FM (SPAN)
No Data	No Data	No Data	No Data	No Data	No Data	7,500	6,700	6,700	KTYS - FM (CY)
-3,100	-3,800	-3,400	-2,100	-2,300	5,400	4,900	6,600	6,600	KSKY - AM (TALK)
-2,700	-2,600	-3,200	-2,800	-2,100	4,700	4,600	6,600	6,600	KZMP - AM (SPAN)
No Data	-1,400	-2,100	-500	-1,100	5,600	7,900	6,300	6,300	KDXX - FM (SPAN)
-2,500	-1,100	-1,400	-1,500	-2,000	6,200	4,300	4,900	4,900	KKDA - AM (U/AU)
-1,900	-1,900	-2,200	-1,900	-2,000	3,600	5,600	4,600	4,600	KAAAM - AM (OLD)
-2,600	-1,900	-2,800	-2,800	-3,100	4,400	2,700	3,800	3,800	KTFW - FM (CY)
1,000	1,100	1,500	1,000	1,600	No Data	No Data	3,700	3,700	KFWR - FM (CY)

Radio Market Report Dates									
Diary:					Average Quarter Hour Station Rankings				
Winter '08	Spring '08	Summer '08	Oct '08	Nov '08	Dec '08	Jan '09	Oct '09	PPM:	PPM:
Winter '08	Spring '08	Summer '08	Oct '08	Nov '08	Dec '08	Jan '09	Oct '09	PPM:	PPM:
# 21	# 28	# 20	# 25	# 22	# 27	# 21	# 24	# 14	# 21 (t)
# 22	# 21	# 22	# 27	# 27	# 27	# 20	# 27	# 27	# 25 (t)
# 23 (t)	# 31 (t)	# 27	# 30	# 29	# 30	# 30	# 29	# 30	# 29
# 23 (t)	# 24	# 26	# 28 (t)	# 28	# 28 (t)	# 28 (t)	# 25 (t)	# 28 (t)	# 14
# 25	# 20	# 18	# 32	# 33	# 32	# 32	# 30	# 30	# 29
# 26	# 18	# 23 (t)	# 28 (t)	# 30	# 30	# 26	No Data	# 26	No Data
# 27	# 27	# 29	# 33	# 32	# 32	# 33	# 36	# 33	# 30
# 28	# 26	# 23 (t)	# 22	# 23 (t)	# 23 (t)	# 28 (t)	# 28	# 28 (t)	# 23
# 29 (t)	# 34	# 33	# 31	# 31	# 31	# 31	# 32	# 31	No Data
# 29 (t)	# 29	# 34 (t)	# 45 (t)	# 45 (t)	# 45 (t)	# 46	# 46	# 46	# 44 (t)
# 31	# 24 (t)	# 30 (t)	# 18	# 17 (t)	# 19	# 19	# 23	# 19	# 26
# 32	# 30	# 28	# 23	# 26	# 25	# 25	# 27	# 25	# 23
# 33	# 33	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data
# 34 (t)	# 36	# 36	# 38	# 37 (t)	# 39	# 39	# 44	# 39	# 38
# 34 (t)	# 37	# 37	# 39	# 40	# 42 (t)	# 42 (t)	# 40 (t)	# 42	# 40 (t)
# 36	# 31 (t)	# 34 (t)	# 34	# 34	# 35	# 35	No Data	# 34	No Data
# 37	# 39	# 32	# 35	# 35	# 34	# 34	# 33	# 34	# 33
# 38	# 35	# 39	# 41 (t)	# 41	# 44	# 44	# 43	# 44	# 43
# 39	# 40	# 38	# 45	# 42 (t)	# 41	# 39 (t)	# 42	# 41	# 42
# 40	No Data	No Data	# 41 (t)	# 42 (t)	# 42 (t)	# 40	# 47	# 42 (t)	# 47

Chicago, IL Radio Stations:

Precurrency PPM Data was collected July 2008 to August 2008

The PPM became currency in September 2008

The last Diary Report was released in Spring 2008

The ranking and average quarter hour persons data listed below are based on the following measured demographic groups and dayparts:

Measured Demographic Group: Persons 12+

Measured Daypart: Monday - Sunday, 6 AM to 12AM

Read the PPM numbers under Average Quarter Hour Persons in the following manner:

A negative number indicates the amount of numerical decrease between the given PPM month and the Spring '08 Diary (the last Diary)

A number followed by a plus sign (+) indicates the amount of numerical increase between the given PPM month and the Spring '08 Diary (the last Diary)

Numbers with no (-) or (+) sign attached to them indicate that there was no Spring '08 Diary data available for comparison.

(t) indicates that the station is tied with at least one other station with respect to rank

"No data," in most instances, indicates that a station did not rank among the top 42 stations in the Chicago radio market.

However, "No data" may also indicate that a station refused to encode its transmissions or became insolvent.

The Committee was unable to contact all stations with "No Data" entries in order to ascertain the specific cause.

The red-highlighted cells illustrate the changes in rankings following the PPM's introduction

Chart Key:	Talk radio/News/Sports Radio (TALK)
Urban/Urban Adult contemporary/Urban Talk (U/UA)	Oldies (OLD)
Spanish language/Spanish music (SPAN)	Smooth Jazz (JAZZ)
Top 40 (T-40)	Classic Rock (CR)
Alternative Rock/Contemporary Rock (AR/CONR)	Country (CY)
Adult Contemporary (AC)	Religious/Christian Contemporary (REL)
Classical Music (CLAS)	Public Radio/The Arts/Education (PUB)
Asian (ASIAN)	Children (CHILD)
World Ethnic (WETH)	

San Francisco, CA Radio Stations:

Precurrency PPM Data was collected July 2008 to August 2008

The PPM became currency in September 2008

The last Diary Report was released in Spring 2008

The ranking and average quarter hour persons data listed below are based on the following measured demographic groups and dayparts:

Measured Demographic Group: Persons 12+

Measured Daypart: Monday - Sunday, 6 AM to 12AM

Read the PPM numbers under Average Quarter Hour Persons in the following manner:

A negative number indicates the amount of numerical decrease between the given PPM month and the Spring '08 Diary (the last Diary)

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Numbers with no (-) or (+) sign attached to them indicate that there was no Spring '08 Diary data available for comparison.

(t) indicates that the station is tied with at least one other station with respect to rank

"No data," in most instances, indicates that a station did not rank among the top 42 stations in the New York radio market.

However, "No data" may also indicate that a station refused to encode its transmissions or became insolvent

The Committee was unable to contact all stations with "No Data" entries in order to ascertain the specific cause.

The red-highlighted cells illustrate the changes in rankings following the PPM's introduction

Chart Key:	Talk radio/News/Sports Radio (TALK)
Urban/Urban Adult contemporary/Urban Talk (UUA)	Oldies (OLD)
Spanish language/Spanish music (SPAN)	Smooth Jazz (JAZZ)
Top 40 (T-40)	Classic Rock (CR)
Alternative Rock/Contemporary Rock (AR/CONR)	Country (CY)
Adult Contemporary (AC)	Religious/Christian Contemporary (REL)
Classical Music (CLAS)	Public Radio/The Arts/Education (PUB)
Asian (ASIAN)	Children (CHILD)
World Ethnic (WETH)	

