

**Appendix HFederal Trade Commission Guidelines
on Audience Ratings Claims**

tailers, or others, promotional material by or through which they may deceive or mislead the purchasing and consuming public concerning any product. [Guide 8]

[¶ 39,026] Guidelines for Audience Rating Claims

Issued July 8, 1965; reaffirmed August 27, 1969

1. A person (or firm) making a claim concerning the size, composition or other important characteristics of a listening or viewing audience is responsible for seeing to it that the claim is truthful and not deceptive. If he bases his claim on the results of an audience survey, he assumes responsibility for interpreting the data accurately. Thus, he should not engage in activities calculated to distort or inflate such data—for example, by conducting a special contest or otherwise varying his usual programming, or instituting unusual advertising or other promotional efforts, designed to increase audiences only during the survey period. Such variation from normal practices is known as "hypoing."

It is also improper to cite or quote from a survey report or survey data in such a way as to create a misleading impression of the results of the survey, as by unfairly basing audience claims on results achieved only during certain periods of the broadcast day or on a survey of only a segment of the total potential audience.

2. Audience data are based on sample surveys not derived from complete measurements of audiences. As such, they are statistical estimates, and, at best are of only limited reliability due to errors and distortions inherent in the statistical methods yielding such data. Claims as to audience coverage based on audience surveys should therefore be qualified

in recognition of the fact that survey data is inherently imperfect. Any such claim should be accompanied by a disclosure that a figures cited or quoted are estimates only, are based upon estimates, and are not accurate, to any precise mathematical degree, unless based upon a true probability sample. Audience surveys are not in practice based upon true probability samples.

3. Such claims should not be based on data obtained in a survey that the person (or firm) making the claim knows or has reason to know was not designed, conducted, and analyzed in accordance with accepted statistical principles and procedures, reasonably free from avoidable bias, and based on a properly selected sample of adequate size. Such claim should not be based on survey reports or data that do not reliably reflect current audience coverage, either because the passage of time has made the data outdated, or because a later survey report encompassing essentially the same area has been published, or because of the entry or departure of a competitor, or for any other reason.

These guidelines are offered to broadcaster and others concerned for consideration in avoiding possible violation of the Federal Trade Commission Act. (FTC Releases dated July 8, 1965 and August 27, 1969.)

[The next page is 41,633.]

Appendix IAnalysis of the Impact of Audience Measurement Tools

An Analysis of the Impact of Audience Measurement Tools
by Kofi A. Ofori

As previously discussed, media buying decisions are greatly influenced by audience demographics and buying habits. In Section II-C-1, it was shown that stations that generate the highest advertising revenues generally have listeners that are economically affluent and that are non-minority. In part, this is due to reliance upon audience measurement reports that are the bread and butter tools of media buyers and station sales representatives. In addition to measuring audience size, these reports survey listener buying habits and cross-tabulate the results according to socio-economic categories. This section of the study examines the reliability of audience measurement reports and the implications of inaccurate data for minority broadcasters.

A 1966 Congressional oversight committee (*see*, Appendix I) summed up the FCC's responsibilities in this area very accurately when it said:

The purchase and use by broadcasters of rating surveys importantly affect the performance of broadcasters in two respects, first, in relation to listeners and viewers, and second, in their competitive relations to each other. The FCC has vital responsibilities with regard to both these aspects.¹

Government oversight of audience research measurement services was prompted by reports of rigged quiz shows and payola during the 1960's. As a result of a Congressional investigation into these matters, the broadcast and advertising industries jointly established an institution that would be responsible for, among other things, administering a system of accreditation for broadcast audience measurement services. Presently known as the Media Ratings Council (MRC), its membership consists of representatives from the advertiser, television, radio and cable television industries.

The data collection methods of the services vary significantly. The MRC reviews the methodology for ratings services, and accredits those who meet MRC's reliability standards. This system was established in recognition of the importance of assuring reliable audience measurement tools for the industry and the public they serve.

1. Areas of Concern with Respect to Qualitative Research.

In evaluating ratings methodologies, issues to be examined include: 1) weighting techniques used to ensure the proper representation of segments of the population which rating services have historically undercounted (*e.g.* minorities); 2) ascription techniques used to complete data that is missing from survey instruments; and 3) techniques use to conform separately prepared reports in order to achieve product consistency.

¹ HOUSE COMM. ON INTERSTATE AND FOREIGN COMMERCE. BROADCAST RATINGS, H.R. NO.1212, 89TH CONG., 2D SESS., AT 11 (1966).

Robert Jordan, President of International Demographics, Inc. which prepares The Media Audit, said in an interview with CRF² that it is the normal practice of audience measurement services to adjust survey data to account for questions on survey instruments which were not completed by survey respondents. Answers from completed survey instruments are used to supply answers for incomplete instruments.³ The process is called ascription. However, Mr. Jordan believed the reliability of this process may be compromised when *entire* survey instruments—not just a few answers—are selected to be ascribed to survey participants who failed to return an instrument.

The problem is further compounded when data is weighted to correct for “skewness,” under-representation of certain groups in the survey responses. The need for this arises when segments of the population are disproportionately under-represented in the sample data. Hispanics, Blacks and young age segments are frequently undercounted and therefore under-represented in audience measurement surveys.⁴ An appropriate amount of “extra weight,” therefore, is given to sample data from undercounted segments to ensure proportional representation. If, however, large portions of the sample data is ascribed (missing answers or surveys are attributed from other surveys), weighting techniques may magnify representational bias in the sample data. Mr. Jordan commented:

[W]hen we start ascribing entire documents, especially when ascribing entire documents exceeds over 50%, then when you start to weight, the weighting starts to magnify as opposed to eliminate the differences between ethnic groups.⁵

For example, if Blacks are under-represented in the sample data and the data on Blacks is supplied by a good random sample, it may be possible to give more weight to the answers supplied by Blacks in order to give them their proper weight in the overall survey results. If, on the other hand, the data on Blacks is not based upon a random sample—*i.e.*, large portions of the data is ascribed—any bias due to ascription may become further magnified by weighting the answers.

² The Media Audit provides consumer information and retail shopping data for over 80 Arbitron markets. It received accreditation from the Media Ratings Council for its methodology and data collection procedures in 1997. The full text of the interview is available in volume III of this study.

³ An attempt is normally made to match the demographic characteristics of the donee instrument (the survey which a missing a response) to the donor instrument (the survey from which a missing response is copied). However, the match may not be exact. Interview with Bob Jordan at 6.

⁴ *Id.* at 9. See, for example, Donna Petrozzello, *Arbitron Undersamples Seven Markets*, Broadcasting & Cable, November 13, 1995 (Arbitron takes steps to correct sample errors that cut short the number of diaries mailed to black and Hispanic households in the New York urban metro area).

⁵ Interview with Bob Jordan at 6.

The differences between the demographics of various radio stations can become exaggerated, if proper statistical procedures are not followed. This may affect the way advertisers value station audiences and decide where to place their ads.

Consequently, broadcasters serving the minority community may find themselves eliminated from ad campaigns, particularly those targeting audiences of certain ages, incomes or education levels. A buy specification for a luxury car commercial that seeks consumers that are ages 25 to 54, college graduates, with household incomes of \$75,000, may fit the profile of easy listening and classical music stations. Flawed ascription and weighting methodologies, however, may make it appear that minority-formatted stations have fewer listeners who fit those characteristics than is actually the case.⁶

A third area of concern involves conforming data taken from one survey to make it consistent with data from another survey. Some audience research services gather data through listener or viewer diaries, other through telephone interviews. Diaries tend to yield larger audience shares than data obtained by telephone interviews.⁷ It is alleged that in order to avoid products with contradictory information, some ratings services will assign a response to a person that did not in fact give that response.⁸ Such procedures raise issues that warrant examination by the Media Ratings Council, Congress, the Federal Communications Commission, and the Federal Trade Commission.

2. The Need for Vigorous Government Oversight

Congress has long recognized that the success or failure of broadcast programming, and thus broadcast stations, rests on the ratings that they receive. In short, "[m]illions of dollars turn on the ratings level," because "program sponsors react to them."⁹

The 1966 Congressional oversight report cited an FCC policy statement that sets forth the jurisdiction over broadcast ratings that the agency shares with the Federal Trade Commission (FTC). The FTC has primary jurisdiction over complaints dealing with questionable audience surveys. False or deceptive claims concerning audience size or characteristics are a violation of the unfair methods

⁶ *Id.* at 16 - 28.

⁷ Interview with Bob Jordan.

⁸ *[Arbitron] will go in there and say, " Okay, this person, this person and this person did not say that they listened to this urban station [in a telephone interview]. But we are going to assign a response to them that says that they did listen. Id.* at 10.

⁹ HOUSE COMM. ON INTERSTATE AND FOREIGN COMMERCE, at 2.

of competition provision of the Federal Trade Commission Act.¹⁰ The misuse of audience surveys by broadcasters are taken into account by the Federal Communications Commission when determining whether a station is operating in the public interest.

The Congressional oversight committee also cited an FCC policy statement that states that it is the obligation of broadcasters to: 1) act responsibly in using survey reports; 2) take reasonable precautions to insure that surveys used in advertising campaigns are valid (e.g. that they are properly conceived, reasonably free of bias, and have adequate samples); and 3) refrain from quoting portions of surveys out of context so as to leave false and misleading impression of the relative ranking of stations in their respective markets.¹¹

There have only been three FTC proceedings that involve the false and deceptive use of audience surveys. All three proceedings resulted in consent decrees issued against companies that provide audience measurement services.¹² In each instance the company agreed to cease and desist from, among other things, representing that its reports are based upon a true probability sample, and failing to disclose the statistical effect of non-responses to the survey instrument. The requirement to provide a detailed disclosure of the measurement methodologies was intended to have the effect of improving the reliability of audience measurement reports.¹³

In 1965, the FTC issued guidelines intended to assist broadcasters and others in avoiding violation of the Federal Trade Commission Act (*see*, Appendix J for full text).¹⁴ In summary the guidelines state:

1. A firm making claims about the size or characteristics of an audience is responsible for making sure that the claim is truthful and not deceptive. If the claim is based upon a survey report, the firm making the claim assumes responsibility for interpreting the data accurately;
2. Unless the audience sample is based upon a true probability sample, the claims concerning audience coverage should disclose the fact that the figures are estimates only and not based upon any precise mathematical degree;

¹⁰ Section 5(a)(1) of the Federal Trade Commission Act states, "*Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful.*" 15 U.S.C. § 45 (a)(1).

¹¹ HOUSE COMM. ON INTERSTATE AND FOREIGN COMMERCE, at 11.

¹² *In the Matter of C-E-I-R, Inc.* 61 F.T.C. 1468 (1962); *In the Matter of A.C. Nielsen Company*, 61 F.T.C. 1473 (1962); *In the Matter of The Pulse, Inc.*, 61 F.T.C. 1479 (1962).

¹³ HOUSE COMM. ON INTERSTATE AND FOREIGN COMMERCE, at 12.

¹⁴ Federal Trade Commission Releases, July 8, 1965 and August 27, 1969.

3. No claim should be based upon survey procedures that the firm knows or has reason to know does not conform with accepted statistical principles, is reasonably free of avoidable bias and is based on a properly selected sample of adequate size.

The guidelines clearly charge broadcasters with the responsibility of ensuring that claims concerning their audience are not false or deceptive. Hence the need for an accreditation system that will enable firms to confidently rely upon the results of audience measurement reports. The industry led efforts to establish such a system followed the 1966 Congressional investigation. The Media Ratings Council is the product of that effort.

Based in New York, the Media Ratings Council is an industry-sponsored organization that seeks to promote audience measurement services that are valid, reliable and effective.¹⁵ Only services that have disclosed their methodologies to the Media Rating Council are subjected its review process which includes an extensive procedural audit. Fourteen ratings services were accredited by MRC in 1998. (See, this Appendix K for list of accredited services and those whose application was pending). Two services were listed as pending in 1998: Scarborough and Mediamark Research Inc. (MRI). As of the date of this report, Mediamark has received MRC accreditation.¹⁶ Scarborough's application remains pending, though it has reapplied to MRC for accreditation each year since 1995.¹⁷

Due to the impact of ratings services on advertiser decisions, station performance, and ultimately, programming available to the public, it is essential that rules concerning the use of statistically valid ratings services be vigorously enforced. Parties, including broadcasters who have had substantial amounts of advertising diverted away from them as a result of advertisers that have been mistakenly lead to place reliance upon flawed survey reports, should encourage the MRC, FTC and FCC to investigate these issues and strongly enforce the rules.

When determining whether a station is operating in the public interest, the FCC should examine whether its licensees are using accredited audience measurement services. In order to promote compliance with statistically accepted standards developed by the industry, the FCC should require stations to show cause why they are not using an accredited service. Further, if the broadcaster is relying upon a non-accredited service, they should be required to disclose that fact in a prominent manner to advertisers, ad agencies or others who are the recipients of sales promotions.

The industry can also take action through the MRC. Broadcasters should adopt a voluntary code of conduct that obligates them to use audience research services accredited by MRC. The code

¹⁵ Board members of the Council represent blue-chip radio and television broadcasters, cablecasters, print organizations, advertising agencies and industry trade associations.

¹⁶ Albana Brunca, Media Ratings Council, Telephone Interview, December 17, 1998.

¹⁷ *Id.*

Page 6 of 6

should also require that the use of non-accredited services to be prominently disclosed to advertisers, ad agencies and others reviewing such data.

Appendix JSurvey Questionnaires

(This appendix contains the consolidated responses for the radio and television station surveys. Numbers in spaces for answers represent the percentage of survey respondents that provided a particular response. The absolute number of survey respondents that answered each question is also provided.)

Radio Questionnaire

THE CIVIL RIGHTS PROJECT, INC.
CIVIL RIGHTS TELECOMMUNICATIONS FORUM

ADVERTISING PRACTICES QUESTIONNAIRE

General managers and their sales staff are encouraged to collaborate to provide answers based upon the totality of their experiences at their present and other minority-owned stations. The following questions recognize that there is the possibility of multiple answers. In some instances, we ask that you rank the answers on a scale. A space for open comments is provided on the last page. If you have any questions, please call us at (202) 332-3301.

Please provide: Station Call Letters 34 FM 30 AM (check one)
Market Rank Format

Urban - 11 Black/Urban - 3 Black Contemporary - 0 Hispanic - 19
News/Talk - 3 Country - 2 Gospel - 8 Adult Contemporary - 3
Foreign Language - 0 Urban Adult Contemporary - 15
Spanish - 14 Tejano - 2 Jazz - 1 R&B Oldies - 1 Christian Contemporary - 0
Nostalgia - 1 AOR - 0

Is your station targeted to a racial ethnic minority? 61 Yes 3 No (check one)
Is your station located in an urban 55 or rural 9 market? (check one)

PART I—"No Urban Dictates"

Definition: "No urban dictates" is the practice of intentionally not advertising on stations with formats targeted to minority audiences.

1a) Have any of the advertising agencies or advertisers from which you have solicited business had a "no urban dictates" policy at any time? (Check only one)

yes 91% no 9% 64 people responded

1b) If yes, approximately how many of these advertising agencies and advertisers have had a "no urban dictate" policy? (Check only one)

28% a very small minority
53% some, but less than a majority
7% a small majority
12% a large majority
57 people responded

2) To what extent are "no urban dictates" practices attributable to advertising agencies versus advertisers? (check only one)

53% mostly advertising agencies 20% mostly advertisers 27% evenly

59 people responded

3) On an annual basis, please provide an estimate of the number of "no urban dictate" policies that you encounter. (write in a number)

26 per year (Some respondents provided a percentage: the average was 32%
(number))

52 people responded

4) To what extent do the following factors influence an advertiser or advertising agency to adopt a "no urban dictate" policy? (rank each answer by circling a number; #1 denotes the highest level of importance)

-format that targets the minority audience 1 2 3 4 5 6 7 8 9 10
Average Response 2

-station ownership by an ethnic minority 1 2 3 4 5 6 7 8 9 10
Average Response 6

-audience income 1 2 3 4 5 6 7 8 9 10
Average Response 4

-audience age 1 2 3 4 5 6 7 8 9 10
Average Response 6

-other: _____ 1 2 3 4 5 6 7 8 9 10
Average Response 13

(describe)

5) How frequently is a "no urban dictate" based upon the fact that a station is minority owned, separate and independent of any other factor? (choose only one)

55% rarely
26% on occasion
14% frequently
5% very frequently

58 people responded

6) How frequently is a "no urban dictate" based upon the fact that the service or product is geared towards the general as opposed to the minority market, separate and independent of any other factor? (choose only one)

13% rarely
30% on occasion
33% frequently
23% very frequently

60 people responded

7) To what extent are "no urban dictates" based upon the reasons listed below? (rank each answer by circling a number; #1 denotes the highest level of importance)

-legitimate reasons based upon evidence that an ethnic-minority market does not purchase the goods or services 1 2 3 4 5 6 7 8 9 10
Average Response 6

-faulty evidence that there is no ethnic market demand for the goods/services in question; 1 2 3 4 5 6 7 8 9 10
Average Response 3

-the desire not to have ethnic minorities patronize the goods/services; 1 2 3 4 5 6 7 8 9 10
Average Response 5

-other _____ 1 2 3 4 5 6 7 8 9 10
(describe) Average Response 9

8) If an advertiser or advertising agency is presented with research that contradicts their "no urban dictates" policy which of the following best describes the response? (rank each answer by circling a number; #1 denotes the highest level of importance)

-no response	1 2 3 4 5 6 7 8 9 10 Average Response 3
-the research is acknowledged, but the agency or advertiser still refuses to grant the account	1 2 3 4 5 6 7 8 9 10 Average Response 3
-the research is acknowledged, but there is a lapse of a long period before the account is granted	1 2 3 4 5 6 7 8 9 10 Average Response 4
-a recission of the policy and an account is acquired within a short period of time	1 2 3 4 5 6 7 8 9 10 Average Response 7
-other _____ (describe)	1 2 3 4 5 6 7 8 9 10 Average Response 4

PART II—Minority Discounts

Definition: "Minority discounts" is the practice of buying airtime on a minority-owned station at a rate that is discounted from the price that the station should receive based upon the station's market share. In some instances the same result is accomplished by making fewer buys on minority-owned stations compared to majority stations.

1) What percent of your sale transactions are discounted due to "minority discounts"?

61 %

2) On average, what is the percentage amount that your spot sales discounted due to "minority discounts"?

59 %

3) In your estimation which of the following factors influence advertisers or advertising agencies to impose "minority discounts"? (rank each answer by circling a number; #1 denotes the highest level of importance)

-audience income	1 2 3 4 5 6 7 8 9 10
	Average Response 5
-racial ethnic composition of the audience	1 2 3 4 5 6 7 8 9 10
	Average Response 3
-evenly—audience income and racial ethnic composition	1 2 3 4 5 6 7 8 9 10
	Average Response 4
-ability to reach minority audience via media outlets not targeted to minorities.	1 2 3 4 5 6 7 8 9 10
	Average Response 4

4) Based upon your experience, is a minority-owned station that targets minorities likely to be subject to minority discounts, even though the income of its audience is comparable to non-minorities in the same market? (check only one)

70% Yes 7% No 23% No experience to provide an answer to this question.

61 people responded

5) Based upon your experience, is a minority-owned station *that does not target minorities* likely to be subject to minority discounts? (check only one)

12% Yes 38% No 50% No experience to provide an answer to this question.

60 people responded

6) Based upon your experience, if a "minority discount" is countered with research justifying the full price for a spot, will the buyer pay the full price for the spot?

22% Generally yes 45% Generally no 33% No experience to provide an answer to this question.

60 people responded

PART III—Impact on Revenue and Access to Capital

1) Based upon your professional knowledge and experience in the media and interaction with other broadcasters, to what extent are “no urban dictates” and “minority discounts” a pervasive problem throughout the industry? (check only one)

8% negligible
25% minimal
44% pervasive
22% very pervasive

59 people responded

2) What percentage of your annual sales revenues do you lose to both “minority discounts” and “no urban dictates”?

63 %

3) To the extent that “minority discounts” and “no urban dictates” are associated with formats targeted to minority audiences -

a) do such practices interfere with the ability to raise capital to acquire minority-formatted stations? (check only one)

5% not at all
18% minimally
33% moderately
44% very much so

55 people responded

b) do such practices detract from the market value of a minority-formatted station when it is being sold? (check only one)

2% not at all
25% minimally
29% moderately
44% by a substantial amount

55 people responded

PART IV—The Impact of Local Market Consolidation

For the purpose of this questionnaire, a local market consolidator is defined as owning four or more stations in your local market and controlling 30% or more of the local radio sales revenues. If there are no local market consolidators in your market that satisfy this definition, please do not complete this section.

1a) Are there any "local market consolidators" in your market? yes 93% no 7% (do not include your company if it meets the definition)

45 people responded

1b) If yes, how many 3

1c) If yes, how many stations do these local market consolidators ("LMCs) own (indicate the number of stations owned)

LMC1 5

LMC2 4

LMC3 4

2a) Do minorities own any of the local market consolidators in your market? Yes 9% no 91% (include your company if it meets the definition)

44 people responded

2b) If yes, how many 1

2c) If yes, is your company a local market consolidator? Yes 44% No 56%

9 people responded

3a) Do any of the local market consolidators that are not minority owned program their stations to target the minority community? Yes 60% no 40% (not including your station)

42 people responded

3b) Does your station target its programming primarily to minorities? yes 97% no 3%

38 people responded

4) Please describe any competitive advantages that local market consolidators have over your station in terms of their ability to solicit spot sales. (rank each answer by circling a number; #1 denotes the highest level of importance)

-none; 1 2 3 4 5 6 7 8 9 10
Average Response 8

-able to afford undercutting the price of
your spot sales 1 2 3 4 5 6 7 8 9 10
Average Response 4

-able to offer advertisers a wider range
demographics than your station. 1 2 3 4 5 6 7 8 9 10
Average Response 2

-other _____ 1 2 3 4 5 6 7 8 9 10

(describe) Average Response 6

5) What impact have local market consolidators had upon your station? (rank each answer by circling a number; #1 denotes the highest level of importance)

-no impact 1 2 3 4 5 6 7 8 9 10
Average Response 6

-taken sales away such that station revenues
have significantly declined 1 2 3 4 5 6 7 8 9 10
Average Response 5

-taken away audience share such that
listenership has significantly declined 1 2 3 4 5 6 7 8 9 10
Average Response 5

-other _____ 1 2 3 4 5 6 7 8 9 10

(describe) Average Response 6

PART V—Open Comments

Have you encountered discriminatory advertising practices that go by a name different from “no urban discounts” or “minority discounts”? Yes 18 No 15. If so, please use this space to describe them _____

We welcome additional comments that you might have about advertising practices that adversely affect your station: _____

Name of the individual completing this questionnaire: _____
(print)

Title: _____

Signature: _____

Date: / / 97

Please use the return envelope or mail questionnaire to:

The Civil Rights Telecommunications Forum
ATTN: Kofi A. Ofori
2040 S Street, N.W.
Washington, D.C. 20009

Television Questionnaire

**CIVIL RIGHTS TELECOMMUNICATIONS FORUM
ADVERTISING PRACTICES QUESTIONNAIRE**

General managers and their sales staff are encouraged to collaborate to provide answers based upon the totality of their experiences at their present and previous places of employment. The questionnaire is divided into three sections: (salesforce, programming, and ownership). We hope that you will give each section your full attention. A space for open comments is provided on the last page. If you have any questions, please call us at (202) 887-0301.

Name of Station Owner _____

Are the majority of corporate shares or partnership interests of your station owned by minorities?

Yes 9 No 2

Call Letters: _____

Arbitron Market Name: _____ Rank: 11

VHF 4 or UHF 7 (check one)

Independent 0 or Affiliate 11 (check one)

If an affiliate, please circle the appropriate network: ABC, NBC, CBS, FOX, Home Shopping Network, other
ABC - 4 NBC - 1 CBS - 6 Fox - 2 HSN - 0 Other - 2 Univision - 2 (name).

Is a significant amount of your programming conducted in a language other than English?

Yes 2 No 9

If yes, please specify. Hispanic - 2 (Language).

PART I (Minority Sales Staff)

1. Do you believe that the race or ethnic status of a salesperson/account executive representing your station has had any bearing upon the decision of advertisers or advertising agencies to support your station? (please place a check in the box which accurately reflects your response)

Yes 36% No 64% 11 people responded

Television Questionnaire

1a. If yes, what percent of cases has the minority race or ethnic background of your sales representative had a negative bearing upon decision of an agency or advertiser to place an ad with your station. (check one)

<u>50%</u>	0% to 10%
<u>50%</u>	11% to 30%
<u>0%</u>	31% to 50%
<u>0%</u>	51% to 70%
<u>0%</u>	71% and above

4 people responded

1b. If yes, what percent of cases has the minority race or ethnic background of your sales representative had a positive bearing upon decision of an agency or advertiser to place an ad with your station. (check one)

<u>75%</u>	0% to 10%
<u>0%</u>	11% to 30%
<u>0%</u>	31% to 50%
<u>0%</u>	51% to 70%
<u>25%</u>	71% and above

4 people responded

2. Do you know of specific advertisers or advertising agencies that have not supported your station with advertising dollars because your station's salesperson was a minority? (please place a check in the box which accurately reflects your response)

Yes 27% No 73% 11 people responded

2a. If yes, please indicate the percentage of instances during the course of a year that advertising support is either withheld or substantially discounted because of the minority status of your salespeople?

<u>33%</u>	0% to 10%
<u>67%</u>	11% to 30%
<u>0%</u>	31% to 50%
<u>0%</u>	51% to 70%
<u>0%</u>	71% and above

3 people responded

Television Questionnaire

3. Has anyone on your station's sales force reported or discussed any encounters with advertisers or their advertising agency representatives which would lead you to believe that the minority race or ethnic background of the salesperson was a factor in not obtaining advertising support? (please place a check in the box which accurately reflects your response)

Yes 36% No 64% 11 people responded

4. If you answered yes to question #3, at which level in the decision making process do you believe your station's potential to obtain advertising support from advertisers or their advertising agency representatives was impaired due to the minority status of the salesperson? (please place a check next to the option which accurately reflects your response)

_____ 0% _____ mostly at the advertising agency level
_____ 100% _____ mostly from advertisers
_____ 0% _____ evenly

4 people responded

5. Give an estimate of sales loss which can be attributed to advertiser or advertising agency perception of minority salespeople representing your station: (please place a check next to the option which accurately reflects your response)

_____ 100% _____ 0% to 10%
_____ 0% _____ 11% to 30%
_____ 0% _____ 31% to 60%
_____ 0% _____ 61% and above

5 people responded

PART II (Programming Targeted to Minorities)

1. Does your station target more than half of its programming to minority viewers? (please place a check in the box which accurately reflects your response)

Yes 18% No 82% 11 people responded

2. If your answer to question #1 is "no", is there another socio-economic audience segment towards which a majority of your programming is targeted?

Yes 11% No 89% 9 people responded

If so, please describe: _____

Television Questionnaire

3. Do you believe that advertisers or their advertising agency representatives engage in practices to withhold advertising support to a station if they perceive the station's programming is targeted to the viewers described in questions 1 or 2? (please place a check in the box which accurately reflects your response)

Yes 18% No 82% 11 people responded

4. Do you believe that advertisers or their advertising agency representatives withhold advertising support to a station because the station's programming is in a non-English language?

Yes 30% No 70% 10 people responded

5. Do you know of specific advertisers or advertising agencies that view your programming and/or audience reached as negative factors which prohibit them from using your station as an advertising vehicle? (please place a check in the box which accurately reflects your response)

Yes 18% No 82% 11 people responded

5a. If yes, please indicate the percentage of instances during the course of a year that advertising support is either withheld or substantially discounted because of programming aired by your station that is directed to minorities.

<u>0%</u>	0% to 10%
<u>50%</u>	11% to 30%
<u>0%</u>	31% to 50%
<u>0%</u>	51% to 70%
<u>50%</u>	71% and above

2 people responded

6. Has anyone on your sales force reported or discussed any encounters with advertisers or their advertising agency representatives which would lead you to believe that your station's programming was a negative factor in obtaining advertising support? (please place a check in the box which accurately reflects your response)

Yes 27% No 73% 11 people responded

Television Questionnaire

7. If you answered yes to question #5, at which level in the decision making process do you believe your station's potential to obtain advertising support from advertisers or their advertising agency representatives was impaired. (please place a check next to the option which accurately reflects your response)

33% mostly at the advertising agency level
 33% mostly from advertisers
 33% evenly

3 people responded

8. Give an estimate of sales loss which can be attributed to advertisers or their advertising agency representatives perception of your station's programming as targeted to viewers described above:

0% 0% to 10%
 50% 11% to 30%
 0% 31% to 60%
 50% 61% and above

2 people responded

PART III (Ownership & Control of Station)

1. Do you believe that advertisers or their advertising agency representatives engaged in practices to withhold advertising support to your station, if they perceive the station's ownership and control is by minorities? (please place a check in the box which accurately reflects your response)

Yes 36% No 64% 11 people responded

2. Do you know of specific advertisers or advertising agencies that view your station's ownership and control by minorities as negative factors which prohibit them from using your station as an advertising vehicle? (please place a check in the box which accurately reflects your response)

Yes 18% No 82% 11 people responded

3. Has anyone on your station's sales force reported or discussed any encounters with advertisers or their advertising agency representatives which would lead you to believe that your station's ownership and control by minorities as a negative factor in obtaining advertising support? (please place a check in the box which accurately reflects your response)

Yes 18% No 82% 11 people responded

Television Questionnaire

4. If you answered yes to question #3, at which level in the decision making process do you believe your station's potential to obtain advertising support from advertisers or their advertising agency representatives was impaired? (please place a check next to the option which accurately reflects your response)

0% mostly at the advertising agency level
 50% mostly from advertisers
 50% evenly

2 people responded

5. Give an estimate of sales loss which can be attributable to advertisers or their advertising agency representatives perception of your station's ownership and control by women:

50% 0% to 10%
 0% 11% to 30%
 0% 31% to 60%
 50% 61% and above

2 people responded

6. To what extent do the following factors negatively influence advertiser or advertising agency decisions to advertise on your station? (rank each answer by circling a number: #1 denotes the highest level of importance)

programming targeted to minority audience 1 2 3 4 5 6 7 8 9 10
 Average Response 8

programming targeted to segment described in Part I # 2. 1 2 3 4 5 6 7 8 9 10
 Average Response 9

station ownership and control by women 1 2 3 4 5 6 7 8 9 10
 Average Response 10

gender of the account executive representing the station 1 2 3 4 5 6 7 8 9 10
 Average Response 8

other _____ 1 2 3 4 5 6 7 8 9 10

Part IV (Open question)

Please describe any form of racial discrimination that your station may have encountered that has not been addressed above: 5 open comments

Television Questionnaire

Name of the individual completing this questionnaire: _____

(print)

Title: _____

Signature: _____

Date: ___ / ___ / 98

Please use the return envelope or mail questionnaire to:

The Civil Rights Forum
ATTN: Kofi A. Ofori
818 18th Street, N.W.
Suite 810
Washington, D.C. 20006

Tel: (202) 887-0301

**Appendix KGlossary,
BIA Explanation of Station Revenue Estimates, and
BIA Program Format Categories**

Glossary

Ascription - A statistical technique that assigns diary credit based on the eligible stations' historical (previous available survey year) diary mentions in the county from which the diary was received. The diary mentions are transformed into probability ranges for the purpose of assigning credit. A random number is generated, and, within whichever station's range the number falls, that station receives credit.

Average Local Commercial Share (LCS) - calculated by dividing the station's Arbitron 12+ 6am-midnight share by the total commercial share for a ratings period. LCS is averaged over four ratings periods in the year (*i.e.*, in 1993 BIA used Fall '92, Winter '93, Spring '93 and Summer '93 for radio). LCS is adjusted for "lost listening" (*i.e.* shares received by out-of-market stations or non-commercial stations) and totals 100% for the commercial stations in the market.

Average Quarter-Hour Persons (AQH Persons) - The average number of persons listening to a particular station for at least five minutes during a fifteen-minute period.

Average Quarter-Hour Rating (AQH Rating or AQH PUR) - The average Quarter-Hour Persons estimate expressed as a percentage of the population being measured.

Average Quarter-Hour Share (Share)- The Average Quarter-Hour Persons estimated for a given station expressed as a percentage of the Metro Total Average Quarter-Hour Persons estimates within a reported daypart.

Cost-Per-Thousand - The cost per 1,000 individuals (or homes) delivered by a medium or media schedule.

Cost-Per-Rating Point or Cost Per Point (CPP)- The cost of an advertisement (*i.e.* one 60 second spot) for reaching one percent of the listeners in the metro market.

Cume Persons - The total number of different persons who tune to a radio station during the course of a daypart for at least five minutes.

Cume Rating or Cume PUR - The Cume Persons audience expressed as a percentage of all persons estimated to be in the specified demographic group.

Demographic Groups - Classifications of populations according to sex, age, race, ethnicity income, etc.

Duopoly* - A situation in which two stations on the same service (*i.e.*, AM or FM) in the same market are licensed to a single entity.

Effective Reach - The number of individuals (or homes) reached by a media schedule at a given level

of frequency.

Frequency - The number of times individuals (or homes) are exposed to an advertising message.

General Market Format - for the purpose of this study are all program formats other than the Black, Spanish, Ethnic, and Urban categories as employed by BIA Research. A list of BIA Research format categories and subcategories is included in this appendix.

Gross Rating Points (GRPs) - The sum of ratings delivered by a given list of media vehicles.

Index - A percentage which relates numbers to a base.

Local Commercial Share (LCS) - is calculated by dividing the station's Arbitron 12+ 6am-midnight share by the total commercial share (reduced by the shares received by adjacent market stations and PBS stations). The LCS is averaged over four ratings periods in the year.

Media Mix - The use of two or more different media plans in one advertising plan.

Metro Survey Area (Metro) - The primary reporting area for local radio. Metro Survey Area definitions generally correspond to the federal government's Metropolitan Areas, subject to exceptions dictated by historical industry usage and other marketing considerations as determined by Arbitron.

Minority Discounts - industry jargon for the advertiser and/or ad agency practice of compensating stations that air minority-formatted programming at rates that are lower than what is paid to a general market station with a comparable number of listeners. In some instances, the "discount" involves discrepancies between the general market cost per point paid to minority-formatted and general market formatted stations.

Minority-Formatted Programming - programming formats intended to appeal to racial/ethnic minority listeners. For the purpose of this study they include the following four format categories employed by BIA Research: Black, Spanish, Ethnic, Urban. Within each of these categories there may be several format subcategories (e.g. Urban includes rhythm and blues, urban adult contemporary, and urban rap). A list of BIA Research format categories and subcategories is included in this appendix.

No Urban/Spanish dictates - industry jargon for the advertiser and/or ad agency practice of prohibiting the placement of advertising on stations that air program formats that are either urban or Spanish.

Power Ratio - is calculated by a two-step process. The estimated revenue share for the station is determined by dividing the station revenues by the market revenues times 100. This calculated

revenue share figure is divided by the local commercial share. A power ratio greater than 1 indicates the station is overselling its audience share while a ratio less than 1 indicates a station is underselling its audience share.

Rating - The estimated percentage of the demographic population listening to a given station to total radio during a specified time period.

Reach - The number of different individuals (or homes) exposed to a media schedule within a given period of time.

Reach Station - The total counties in which Arbitron has determined that a specific radio station should be eligible for a diary credit. This area includes counties within the station's signal penetration and may include additional counties if diarykeepers residing in those counties historically report listening to that station (typically due to commuting and travel patterns.)

Revenues - Gross station revenues are BIA estimates based on results of surveys of General Managers and Group Owners. These surveys generally yield a 20% response rate. Revenues for stations not responding to the surveys are based upon estimates of the top 10 station revenues for each metro market supplied by General Managers in those markets. In addition, BIA uses a model based upon the Arbitron 12+ share, station format and historical data to estimate revenues for stations not responding to the survey.

Respondents - Sample persons who provide information in response to survey questions.

Share - See "Average Quarter-Hour Share"

Superduopoly* - A combination of three or more same-service (i.e., AM or FM) stations that are co-owned and serve the same Arbitron market.

Target Demographics - Demographic groupings of multiple discreet demographics, (e.g., Men 18-34, Women 18-49, Persons 25-54) as opposed to discreet demographics, (e.g., Men 18-24, Women 25-34).

** Source: Definitions come from Radio Business Report 1997. Cannot be reprinted without permission from Radio Business Report, Inc.*

Source

1. Arbitron Radio Description Methodology, Radio Market Reports, The Arbitron Company 1996
2. Interpreting BIA's Numbers in Media Access Pro, BIA Research Inc.

3. **Radio Business Report, Radio Business Report, Inc., 1997**



Interpreting BIA's Numbers in MEDIA Access Pro

The average local commercial share (LCS) is calculated to adjust for "lost listening" (radio) or "lost viewing" (TV), which means shares received by out-of-market stations or non-commercial stations. The LCS totals 100% for the commercial stations in the market. It is calculated by dividing the station's Arbitron 12+ 6am-midnight share by the total commercial share for a ratings period. For TV, the 9am-midnight share is divided by the total commercial share (reduced by the shares received by adjacent market stations and PBS stations). The LCS is averaged over four ratings periods in the year (ie, in 1993 we used Fall 92, Winter 93, Spring 93, and Summer 93 for radio and Feb, May, July and Nov 93 for television).

The power ratio shows if the station is overselling or underselling its audience share. It is calculated in a two-step process. The estimated revenue share for the station is determined by dividing the station revenues by the market revenues times 100. Then this calculated revenue share figure is divided by the local commercial share. A power ratio greater than 1 indicates the station is overselling its audience share; while a ratio less than 1 indicates a station underselling its audience share.

Viable - True or False. A viable station is an FM receiving significant ratings/revenues which BIA feels is a serious competitor in the market.

Demographic information comes from Market Statistics, Inc. which publishes *Demographics USA*.

Market revenue figures are BIA estimates based on results of surveys to General Managers and Group Owners. We also use projected growth rates and other economic indicators to estimate these figures. Individual station revenues were estimated for the first time in 1994. These are also based on surveys.

Revenue share is the percent of market revenues for the station. This is calculated by multiplying the power ratio by LCS.

**For further information regarding BIA calculations,
please contact Donna Grigsby, Director of Research, at BIA, 703-818-2425.**



RADIO FORMATS AND CODES

70s	70s Hits	REL	Chrstn Cntry	AC	Mix AC	ROCK	Rock/Spn
70s	70s Oldies	CLAS	Classc/Nws	ROCK	Modern Rock	VAR	Shopping
AAA	AAA	CLAS	Class/Jazz	NAC	NAC AEA/Blk Contemp	JAZZ	Smooth Jazz
AAA	AAA/NAC	MOR	Classic MOR	NAC	NAC/Jazz	SAC	Soft AC
AAA	AAA/Talk	CLAS	Classical	NAC	NAC/Soft AC	SAC	Soft Hits
AC	AC	HITS	Class Hits	NAC	New Age	JAZZ	Soft Jazz
AC	AC/AOR	ROCK	Class Rock/AC	ROCK	New Rock	AC	Soft Rock
AC	AC/CHR	ROCK	Class Rock	NEWS	News	SPAN	Spn/Cntry
AC	AC/Country	CTRY	Cntry/Gospel	NEWS	News/Info	SPAN	Spn/Ethnic
AC	AC/MOR	CTRY	Cntry/Polka	NEWS	News/Insp	SPAN	Spn/MOR
AC	AC/News	CTRY	Cntry/Varity	NEWS	News/Jazz	SPAN	Spn/News
AC	AC/News/Info	COMDY	Comedy	NEWS	News/MOR	SPAN	Spn/Oldies
AC	AC/News/Oldies	CTRY	Country	NEWS	News/Nostal	ETHN	Spn/Portg
AC	AC/News/Spts	CTRY	Country/CHR	NEWS	News/Oldies	SPAN	Spn/Talk
AC	AC/News/Talk	CTRY	Country/Nws	NEWS	News/Sports	SPAN	Spn/Urban
AC	AC/Oldies	CTRY	Country/Old	NEWS	News/Talk	SPAN	Spanish
AC	AC/Sports	CTRY	Country/Rck	NOST	Nostalgia	SPRT	Sports
AC	AC/Talk	CTRY	Country/Tk	NOST	Natlg/Spts	SPRT	Sports/Cntry
AC	AC/Tk/Spts	DARK	DARK	NEWS	Nws/Inf/Jez	SPRT	Sports/News
AOR	AOR	CHR	Dance	NEWS	Nws/Inf/MOR	SPRT	Sports/Oldies
AOR	AOR/ClassRck	VAR	Diverse	NEWS	Nws/Spts/Tk	SPRT	Sports/Talk
AOR	AOR/Talk	EASY	Easy	NEWS	Nws/Talk/AC	TALK	Talk
NOST	Adlt Stndrd	EASY	Easy/Nostlg	NEWS	Nws/Tk/Cntry	TALK	Talk/AC
CHR	Adult CHR	VAR	Eclectic	NEWS	Nws/Tk/Gsp	TALK	Talk/CHR
OLD	Adult Hits	EDUC	Education	NEWS	Nws/Tk/Nost	TALK	Talk/Easy
ROCK	Adult Rock	ETHN	Ethnic	NEWS	Nws/Tk/Oldies	TALK	Talk/Ethnic
MOR	Adult/Trad	ETHN	Ethnic/AC	NEWS	Nws/Tk/Spts	TALK	Talk/Info
ROCK	Alternative	ETHN	Ethnic/Talk	OLD	Oldies	TALK	Talk/Nostlg
ETHN	Asian	FOUK	Folk	OLD	Oldies/AC	TALK	Talk/Oldies
OLD	Beach	FS	FullService	OLD	Oldies/AOR	TALK	Talk/Sports
NOST	Big Band	REL	Gospel	BLCK	Oldies/Blk	SPAN	Tajano
NOST	Big Band/AC	REL	Gospel/AC	OLD	Oldies/CHR	TALK	Tk/Spts/Old
NOST	Big Band/FS	REL	Gospel/Insp	OLD	Oldies/Info	CHR	Top 40
NOST	Big Band/Spt	REL	Gospel/R&B	OLD	Oldies/Rock	CHR	Top 40/Gsp
NOST	Big Band/Tk	REL	Gospel/Talk	OLD	Oldies/Spts	INFO	Traffic/Info
ETHN	Bilingual	ETHN	Greek	OLD	Oldies/Talk	INFO	Travel Info
BLCK	Black	ETHN	Hawaiian	OLD	Oldies/Nws/Tk	REL	Urb Chrstn
BLCK	Black AC	HLTH	Health	ETHN	Polish	URBN	Urb/Gospel
REL	Black Gospel	AC	Hot AC	VAR	Polka	URBN	Urban
BLCK	Black Talk	INFO	Info/Sports	ETHN	Portuguese	URBN	Urban AC
CTRY	Blue Grass	INFO	Information	ROCK	Progressive	URBN	Urban Rap
EASY	Boi Music	REL	Inspiration	PUBL	Public	URBN	Urban/Oldies
NEWS	Bus News	ETHN	Internafl	NEWS	Public Svc	URBN	Urban/Rap
NEWS	Bus/Finan	ETHN	Japanese	BLCK	R&B Oldies	URBN	Urban/Talk
NEWS	Bus/Nws/Spts	JAZZ	Jazz	SPAN	Ranchers	VAR	Variety
CHR	CHR	JAZZ	Jazz/AC	ROCK	Rock/Class	VAR	Variety HR
CHR	CHR/AC	JAZZ	Jazz/Gospel	REL	Relg Music	TALK	Variety/Tk
CHR	CHR/Dance	ETHN	Korean	REL	Relg/Farm	NEWS	Weather
CHR	CHR/Rock	ETHN	Korean/Spn	REL	Religion		
CHR	CHR/Urban	SAC	Lite AC	URBN	Rhythm/Blue		
KIDS	Children	AC	Lite Rock	ROCK	Rock		
REL	Christian	MOR	MOR	ROCK	Rock & Roll		
REL	Chrstn/MOR	MOR	MOR/Country	ROCK	Rock AC		
REL	ChreContemp	MOR	MOR/Nostalg	ROCK	Rock/Oldies		
REL	Chrstn Talk	MOR	MOR/Talk	ROCK	Rock/Rap		
SPAN	Chrstv/Spn	SPAN	Medcan	ROCK	Rock/Rhythm		

BFL Music = NOST

COMMITTEE AND CHAPTER EVENT FORM

Name _____ Organization _____
Address _____ Suite/Room/Apt. _____
City/State/Zip _____
Phone _____ Fax _____ E-mail _____

CHECK THE EVENT(S) FOR WHICH YOU ARE REGISTERING:

- Tuesday, June 15, 2004 CLE Seminar on CFIUS, Hogan & Hartson, 555 Thirteenth Street, Washington D.C., 6:00- 8:15 p.m.**
Cost: \$75.00 for Private Sector Members; \$50.00 for Government and Academic Members, and \$125.00 for Non-Members
Registrations and cancellations due by 5:00 p.m., Friday, June 11, 2004
- Thursday, June 24, 2004 FCBA Luncheon with Commissioner Abernathy, J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW, Washington D.C. Registration will open at Noon. Luncheon begins at 12:30 p.m.**
Cost: \$45.00 for Private Sector Members; \$35.00 for Government and Academic Members, and \$65.00 for Non-Members
Tables of ten are available for \$450.00
Registrations and cancellations due by 5:00 p.m., Monday, June 21, 2004
- Tuesday, June 22, 2004 CLE Seminar on - Migration Trends in Spectrum Use and Regulation, FCC 445 12th Street, S.W., Commission Meeting Room, 5:45 - 8:00 p.m.**
Cost: \$75.00 for Private Sector Members; \$50.00 for Government and Academic Members, and \$125.00 for Non-Members

\$ _____ Total Enclosed Visa MasterCard American Express
Credit card no. _____ Exp. date _____
Signature _____

PAYMENT MUST BE RECEIVED NO LATER THAN THE DAY OF THE EVENT. PHONE REGISTRATIONS WILL NOT BE ACCEPTED.

PLEASE FAX THIS FORM TO: Wendy Parish, Federal Communications Bar Association, Fax: (202) 293-4317

CLE CREDIT: FCBA will be requesting accreditation from the State Bars of Virginia and California for continuing legal education credit. If approved, forms for Virginia and California will be available at the Seminar Registration Desk. Please note that FCBA does not obtain CLE credit for other states. The FCBA will, however, assist with applications to other states, but attorneys must apply individually for credit courses and submit any forms and payments necessary directly to the state bar. The number of credits corresponds with the number of hours of course time, i.e., a two-hour seminar equals 2.0 hours of credit.

**Federal Communications
Bar Association**
1020 19th Street, N.W., Suite 325
Washington, D.C. 20036
Phone: (202) 293-4000
Fax: (202) 293-4317
E-mail: fcba@fcba.org