

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Portable People Meter –)
Commission Inquiry Pursuant To) MB Docket No. 08-187
Section 403 of the Communications)
Act (47 U.S.C. §403))

COMMENTS OF THE PPM COALITION

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COMMENTS OF THE PPM COALITION

The PPM Coalition (“PPMC”) hereby respectfully submits its comments in response to the Commission’s Public Notice released on September 4th in the above-captioned proceeding.¹ In the *Notice*, the Commission solicits comment on the Emergency Petition filed by the PPMC on September 2, 2008, seeking a Commission inquiry into the implementation of Arbitron, Inc.’s (Arbitron) new electronic measurement service – the Portable People Meter (PPM).² PPMC hereby incorporates its Petition herein by reference. A Commission inquiry is necessary to shed light on the methodological problems that have been identified in early PPM markets and avert the potential harm that could befall *minority broadcasters*³ if the identified flaws, as alleged,

¹ See Commission’s Public Notice, MB Docket No. 08-187 (rel. Sept. 4, 2008), announcing comment cycle for PPM Colition’s Petition Seeking Commission Inquiry Pursuant to Section 403 of the Communications Act (47 U.S.C. §403) (“*Notice*”).

² See *id.*

³ The term “minority broadcasters” primarily refers to broadcast companies that target minority audiences. Some minority broadcasters are not minority owned; for example, the urban divisions of companies like Clear Channel Radio, Cox Radio and Cumulus, and Spanish language specialists such as Univision, Entravision and Davidson Media. References to minority-owned broadcasters are made explicitly where necessary for context.

result in an undercounting of minority audiences.⁴ As demonstrated herein, the Commission should grant the PPMC Petition in short order. Scrutiny by the Commission into the non-transparent process of audience measurement evaluation is the most reasonable and efficient means of assessing the seriousness of methodological flaws and the potential harm to the broadcast industry if Arbitron commercializes its PPM service without adequately addressing the significant methodological shortcomings identified by the MRC and radio broadcasters.⁵ Given the importance of Arbitron's rating services to the entire radio broadcast industry and the FCC, it is vital to evaluate whether Arbitron's rush to market with an unaccredited rating service is ill-considered, counterproductive to the health and diversity of the broadcast industry, and ultimately, harmful to radio listeners nationwide.

Arbitron is the monopoly provider of ratings data for the United States radio broadcast industry. Free over-the-air radio relies on a single revenue stream generated by the sale of commercial advertising, priced and sold based on the ratings data provided by Arbitron. If, as here, important questions exist about the reliability and validity of the data relied upon by the radio broadcast industry, the Commission has a duty to investigate allegations that could affect the stability of the industry, in particular where such data may disproportionately threaten the diversity of media outlets throughout the United States.

Furthermore, for decades, the Commission has relied upon the accuracy and validity of Arbitron's market definitions and ratings data as a central component of its multiple ownership

⁴ *See Notice.*

⁵ Currently, the New York and New Jersey Attorneys General have opened investigations into Arbitron's roll-out plans and have subpoenaed documents to begin those investigations, however, PPMC believes that the Commission's roll as steward of the broadcast industry and the public interest must be exercised to hold Arbitron, the monopoly provider of ratings data, accountable to the industry that it serves.

analysis.⁶ Accordingly, the Commission has a vital interest in ensuring that the data upon which its own rules rely remains valid and accurate. Section 403 provides the Commission with sufficiently broad authority to conduct an investigation to obtain necessary information useful in the application of its own rules and in the determination of FCC policies.

I. ARBITRON'S PLAN TO COMMERCIALIZE AN UNACCREDITED CURRENCY PRODUCT IS UNPRECEDENTED

Arbitron repeatedly touts the fact that it has received accreditation for its PPM service in Houston. However, that is misleading, Arbitron does not intend to use the methodology accredited in Houston. Instead, Arbitron plans to commercialize a substantially different methodology – that has been denied Media Ratings Council (MRC) accreditation – in the four largest radio markets on October 8th.

Arbitron has used two different sampling methodologies to deploy its Portable People Meter (PPM) services. Initially deployed in 2005 in its test phase, PPM began as a joint venture with Nielsen Media Research.⁷ Rolled-out first in the Houston-Galveston market, Arbitron, in conjunction with Nielsen, constructed its sample panel in Houston using an address based recruitment frame that received accreditation from the MRC in January 2007. However, in Philadelphia, the second market to proceed to currency with PPM, Arbitron used a telephone based recruitment frame – entitled “Radio First” – to build its sample. Markedly different in methodology and results, the Radio First methodology flunked MRC's accreditation process in

⁶ See 47 C.F.R. § 73.3555. The Commission's multiple ownership rules rely on market definitions established by Arbitron. Furthermore, Arbitron's ratings data may be utilized in determining how many independently owned media voices remain in a given market (*e.g.*, the radio-television cross-ownership rules permit an independently owned out-of-market radio station with a minimum share as reported by Arbitron to be counted as a remaining media voice).

⁷ Nielsen and Arbitron initially conceived PPM as a way to track the radio and television habits of the same people. Nielsen pulled out of the venture in March 2006.

late 2007.⁸ Yet, despite MRC's affirmative denial of accreditation for Radio First and the existence of an accredited method, Arbitron intends to commercialize Radio First in the largest radio markets in the U.S. on October 8, 2008 and nationwide in the top fifty radio markets in the U.S. by 2010.

A. PPM Accredited Sampling Methodology Used In Houston Incorporates "Best Practices" Address Based Recruitment -- All Other Markets Will Get the Cheaper Unaccredited "Radio First" Methodology

The Houston market's sample panel was constructed from an address based framework initially utilized by Nielsen for its TV metered sample. The sample design and methodology is based on a random sample of all addresses in the Houston designated market area (DMA). The original sample panel was recruited with the hope that Arbitron and Nielsen would be able to use the same sample for TV and radio measurement. Once an address was randomly selected, attempts were made to recruit the specific household utilizing various methods. If a phone number was available, phone recruitment was attempted. If the original household refused on the phone, then an in person attempt was made. After two (2) unsuccessful in person attempts were made, an alternate household matching on key characteristics was chosen and recruitment of the alternate(s) was attempted. After the initial test period, Nielsen ended the joint venture because it did not believe it could obtain TV viewing data that met the same quality standards as its current methodology.

According to Arbitron, today about half of the Houston sample is recruited by phone and the other half in person. It is easier to convert an initial no to a yes in person than on the phone. Further, given the prevalence of cell phone use in our society, there is rising concern about the

⁸ The MRC released a public statement announcing its denial of accreditation to Arbitron's PPM services deployed in Philadelphia and New York incorporating the Radio First methodology. See MRC Press Release, dated February 28, 2008, attached at Exhibit 1.

representativeness of traditional landline telephone surveys and other data collection efforts. For this reason, there is a growing trend within the research community to move away from reliance on telephone samples and toward large scale address databases.⁹ Address based sample frames are more likely to cover cell-phone only homes.

For all other markets, Arbitron intends to utilize a wholly different methodology called “Radio First” that relies on a telephone based recruitment frame. According to Arbitron, it moved to this revised methodology after Nielsen ended the joint venture and the company needed to establish a cheaper means of delivering electronic measurement.¹⁰ Radio First relies on random digit dialing, which is a computer process that generates landline telephone numbers based on known area codes and exchanges for the relevant DMA. Arbitron selects a small proportion of cell phone only numbers in addition to the listed landline phone numbers; a proportion which is significantly lower than the actual penetration of cell phone only households in the U.S.¹¹ In its explanation of its methodology, Arbitron explains that it deliberately under-samples cell-phones because the recruitment costs associated with random cell phone calls are higher.¹² In addition, care must be taken to ensure that the panelist is indeed in a cell phone only

⁹ See Michael W. Link, “*Cutting the Cord, Reaching the cell-phone-only household*,” Consumer Insights, Nielsen Media Research, Issue 5 (Nov. 2007), available at http://www.nielsen.com/consumer_insight/issue5/ci_story5.html.

¹⁰ In its partnership with Nielsen, Steve Morris, CEO of Arbitron, indicated that Nielsen had committed to 2/3rd of the cost of rolling-out a joint product that measured radio and TV. “When we broke up that potential partnership with Nielsen and went out on our own, we had to figure out how to get a service that would give radio the kind of sample size that it requires paying for it on [our] own.” See Testimony of Stephen Morris, CEO of Arbitron before the New York City Council, Joint Committee on Consumer Affairs and Civil Rights, September 10, 2008

¹¹ Arbitron’s sample per market currently includes approximately 5-7% cell phone only users, while the U.S. average for cell phone only use is now 14%. This percentage increases based on age and other demographic factors, such as income level and ethnicity. According the Center for Disease Control’s most recent study, the average percentage of cell phone only households for young adults age 18-24 is 30.7% and for Hispanics it is 19.3%.

¹² See Explanation of PPM Methodology, Arbitron 2008.

environment. Arbitron makes multiple attempts to reach the selected phone numbers and once it reaches someone at the number it attempts to recruit them. If the respondent says yes, the PPM equipment is mailed to them. If the respondent refuses, a different number is selected to replace the original number. While Arbitron originally attempted to match phone households with similar characteristics, it now selects an alternate number that Arbitron believes to have the best “likelihood” of improving needed characteristics in the overall sample for the market even if from a different geography within the metropolitan area.

It is easier to say no on the telephone than in person and much more difficult to convert a no to a yes than in person. Spanish speaking Hispanics and African Americans are traditionally the most difficult respondents to recruit for research.¹³ In general, research companies doing in person recruitment try to match the recruiter with the demographics of the neighborhood to improve cooperation and eliminate fear and other concerns about participating in a panel. Moreover, in today's environment, given existing attitudes about immigration, a Spanish speaking Hispanic is much more likely to be able to recruit another Spanish speaking Hispanic in person than an unfamiliar voice over the phone.¹⁴

B. Arbitron’s Radio First Methodology Does Not Meet The Minimum Standards Required For Audience Measurement Research

There are currently only four recognized providers of currency audience measurement products in the United States: Nielsen for local and national TV; Arbitron for local and national

¹³ Testimony of Ceril Shagrin, Senior Vice President Corporate Research, Univision, before the New York City Council Hearing on Arbitron’s PPM, September 10, 2008.

¹⁴ *Id.*

radio; Scarborough for newspapers; and MRI for print media.¹⁵ Out of all of these, no currency audience measurement product has ever proceeded to market without achieving MRC accreditation in at least one market prior to commercialization. According to George Ivie, CEO of the MRC, “The only situation we’ve encountered similar to PPM is with Local Nielsen TV with a new product introduction called LPM (Local People Meter). Nielsen rolled out LPM after the first market (Boston) was accredited. Thereafter the situation was tougher. Nielsen didn't want to wait for accreditation, and even in the case of a couple of markets didn't even wait for completion of an audit. This led to some congressional hearings and the development of our Voluntary Code of Conduct (VCOC).¹⁶ Nielsen then committed to follow the VCOC’s minimum guidance related to audits. At this point we've accredited 10 LPM [markets]. They don't wait for accreditation prior to roll out. This is the only similar situation we've encountered. It's IMPORTANT to remember that the methodology between Boston LPM and later LPMs did not change.” (*emphasis in original*)

Arbitron continues to highlight the fact that its PPM services have been accredited in Houston, implying that this should be sufficient to alleviate concerns about subsequent market roll-out. However, as indicated above, the methodology employed in Houston and all other subsequent markets is completely different – one accredited and one not. Arbitron also continues to assert that it is committed to following the MRC’s VCOC, but the VCOC

¹⁵ *Statements of George Ivie, Executive Director and Chief Executive Officer of the Media Ratings Council, September 22, 2008.*

¹⁶ Prior to the Voluntary Code of Conduct, Congress contemplated legislation to ensure that accreditation procedures were followed. *See The Fair Ratings Act, S.1372 (109th Congress).*

recommends accreditation prior to commercialization for any currency measurement service seeking to replace an existing accredited product.¹⁷

The affirmative denial of accreditation by the MRC means that Radio First has failed to meet the absolute minimum standards established by the industry body responsible for ensuring the validity, reliability and effectiveness of media ratings research.¹⁸ In other words, Radio First has flunked.

The MRC's minimum standards address the requirements for ethics and operations, disclosure and electronic delivery tools. 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/clients, the MRC and its independent auditors, as well as the form in which the information should be made available. Electronic delivery standards are designed to ensure that the service maintains appropriate system controls and meets certain minimum reporting standards. A copy of the MRC's Minimum Standards is attached at Exhibit 2. The following highlights just a few of the standards ensured by the MRC:

Ethical & Operations Standards

- Each ratings service shall try constantly to reduce the effect of bias, distortion and human error in all phases of its activities.
- The sample design for audience (sample design and sample plan) must, to a reasonable degree, accurately reflect the statistical population target for measurement. In each ratings report, the statistical (target) population to which measurements are projected must be clearly defined.

¹⁷ See Department of Justice Letter approving MRC's request to make explicit in the VCOC its preference that a "Participating Measurement Service seeking to replace an accredited currency measurement product with a new currency measurement product use its best efforts to obtain accreditation of the new product prior to commercialization." DOJ Letter, dated April 11, 2008.

¹⁸ See Media Ratings Council, Minimum Standards for Media Ratings Research (attached at Ex. 2).

Disclosure Standards

- The ratings service shall show in a prominent place in each report a comparison of 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 must be published in each report but need be updated only semi-annually.

Electronic Delivery

- Users of the system/software should be alerted and reports from the system must delineate:
 - 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 the system analyzes; in these instances, the system shall indicate the minimum number of sample returns required for each analyses.
 - Data from non-accredited sources. System reports should clearly disclose these situations...

The MRC does not discourage ratings companies from establishing higher standards of operation, but Arbitron can't even satisfy the minimum.

II. COMMISSION INTERVENTION IS REQUIRED TO ASCERTAIN THE FACTS AND ASSESS POTENTIAL HARM TO BROADCAST DIVERSITY

Minority broadcasters have negotiated for over two years with Arbitron to no avail. On the one hand, Arbitron acknowledges the industry's concerns and promises to continue its efforts to improve its PPM services – improvements to the quality of its sample, improvements to the weighting of its data, and improvements to the compliance rates of its participants, etc...¹⁹ On

¹⁹ See Arbitron Announces Restart of Commercialization of Portable People Meter Services, Business Wir, June 12, 2008, available at http://findarticles.com/p/articles/mi_m0EIN/is_2008_June_12/ai_n26673288; Arbitron to Boost PPM Panels, Radio Business Report, July 19, 2008, available at http://www.rbr.com/radio/arbitron_to_boost_ppm_panels.html.

the other hand, Arbitron insists that its PPM services are reliable and effective. Which is the truth? Is PPM ready for market or does it still need considerable work? Without MRC accreditation or access to Arbitron's guarded research data there is no way for the industry to judge. This is why the Commission must investigate. To date, all that we do know is that the initial results of the unaccredited PPM services have purported to show a drastic decline in the audience for stations serving African-American and Hispanic communities. Given this fact, the continued unabated roll-out of Radio First PPM will result in devastating financial losses for minority radio. Initial estimates predict that if PPM were rolled out nationally in its current form, minority broadcasters' annual gross revenues would decline by 30 – 40%.²⁰

A. MRC Accreditation Is The Gold Seal On Audience Measurement And Without It The Broadcast Industry Cannot Rely On The Accuracy of PPM

The MRC's accreditation process begins with an independent audit which involves a detailed and rigorous review of every aspect of a ratings service. The audit team inspects all aspects of the research methodology, including but not limited to (i) laboratory and real-world field tests of electronic devices (*i.e.*, meters, encoders, tracking systems, etc.); (ii) end-to-end evaluation and verification of software; (iii) a thorough examination of the sample design and sampling execution; (iv) examination of panel recruitment and installation methods; (v) assessments of sample performance, proportionality and in-tab rates; and (vi) an assessment of data processing, universe estimate (*e.g.*, language) and weighting procedures. Once the audit is complete an audit report is submitted to the MRC Audit Committee which then makes a recommendation to the Board of Directors on whether to recommend accreditation for the

²⁰ Testimony of Charles M. Warfield, Chief Operating Officer, ICBC Broadcast Holdings, Inc., FCC *En Banc* Hearing on Overcoming Barriers to Communications Financing, July 29, 2008.

product. In Arbitron's case that recommendation was obviously "No." In short, MRC knows the science and in the organization's opinion PPM's Radio First methodology was not ready.

MRC denied accreditation, but Arbitron nevertheless insists its product is ready for market. The Commission cannot sit idly by while this fundamental incongruity wreaks havoc on the radio broadcast industry. MRC's denial of accreditation means that fundamental flaws do exist in the Radio First methodology. Are those flaws severe enough to disrupt the radio broadcast industry? Preliminary results and the ensuing economic impact on minority broadcasters suggest yes. If the current ratings trend continues, many minority-owned broadcasters will not survive. Therefore, the Commission must exercise its Section 403 authority to investigate the claims of minority broadcasters before it is too late.

B. Radio First PPM Has A Disparate Impact on Radio Stations Serving Minority Audiences, Putting Broadcast Diversity At Risk

Inaccurate ratings affect the entire industry; but minority broadcasters have been disproportionately affected by the roll-out of PPM. Upon roll-out, Arbitron initially anticipated an overall 30% reduction in audience share.²¹ While this has been true for most general market stations, the impact on urban and Hispanic stations has been far more severe, with those stations encountering a 50-60% decline.²² For example, in Philadelphia upon roll-out of Radio First PPM, WDAS-FM, previously the top rated station suffered a 44.4% decline in its 12+ average quarter hour (AQH) ratings versus the immediately preceding diary ratings period; more damaging was a 57.1% decline in its target demo of adults 25-54. In Los Angeles, urban station KGLH suffered

²¹ See Planning & Buying Radio Advertising in a PPM World: How 70 Meter Target Ratings Points Can Equal 100 Diary Ratings Points, Arbitron (2008-09).

²² Testimony of Frank Flores before the New York City Council, Joint Committee on Consumer Affairs and Civil Rights, September 10, 2008; *see also* Testimony of James L. Winston before the New York City Council, Joint Committee on Consumer Affairs and Civil Rights, September 10, 2008.

an 84% audience decline. The station's market rank plunged from number 20 in the Diary to number 40 in PPM. In New York, WBLS had a 50% decline in its 12+ AQH ratings and a 62.5% decline in the key 25-54 demo with PPM. Spanish language station WPAT suffered a 60% decline in its 12+ AQH. This pattern has repeated across the board in all Radio First markets. Arbitron has provided no satisfactory answer for this disparate impact. The FCC must launch an inquiry to assess the cause of this disparate impact and its effect on minority radio.

Minority broadcasters fear that if PPM is commercialized in its current form, it will spell the end for a number of minority-owned broadcasters. The Commission has spent nearly four decades attempting to foster diversity in broadcast ownership. Indeed, one of the central tenets of our nation's communications policy is that the widest dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.²³ Further, the Commission recognizes the strong nexus between diversity of ownership and diversity of viewpoint. If, as minority broadcasters claim, the commercial release of a flawed PPM methodology could result in financial losses on a magnitude of 30-40%, then the viability of minority-owned radio is at stake and a pillar of this nation's communications policy will fall.

Section 257 of the Communications Act charges the Commission with eliminating market entry barriers that inhibit minority broadcast ownership.²⁴ Recently, the Commission took several commendable steps aimed at achieving that goal.²⁵ Unfortunately, the Commission efforts may be for naught if Radio First is allowed to roll-out commercially in the top radio markets in the U.S. An imperfect ratings system, which PPM is at this juncture, would create an

²³ See Associated Press v. United States, 326 U.S. 1, 20 (1945).

²⁴ 47 U.S.C. § 257.

²⁵ See Promoting Diversification of Ownership In Broadcasting Service, MB Docket No. 07-294, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922 (2008).

insurmountable obstacle for enhancing the diversity of radio. A flawed methodology will have disastrous consequences on minority media and by extension minority groups. In the United States, minority radio stations are a vibrant extension of the communities in which they serve, offering news and information on social, political and economic issues important to the audiences they serve. For example, Spanish language station WPAT in New York, offers its listeners important information on domestic violence programs, school mentoring programs, voter registration drives, learn to read programs and conducts an annual AIDS Awareness program. Consequently, if minority audiences are undercounted the effect will not be limited to the stations themselves, but the communities they nobly serve. The death of minority radio will mean the silencing of powerful and distinctive community voices. The public interest should dictate that the Commission make every effort to ensure that this does not come to pass.

Arbitron's premature roll-out of PPM also threatens to jeopardize one of the most important regulatory strides taken by the Commission in recent years – the ban on racial discrimination in the sale of broadcast advertising.²⁶ Arbitron's ratings are the bread and butter that feeds the radio industry and minority broadcasters have had to scrape and claw for every crumb from advertisers who have lived by the "no urban or Hispanic" dictate for decades. As we take a collective step forward, the release of flawed PPM data may put us two steps back as discriminators latch onto the ostensibly lower ratings of urban and Hispanic stations to justify their continued refusal to buy advertising time on minority focused outlets. If the disproportionate impact on minority broadcasters is due to flaws in Arbitron's Radio First methodology, then the Commission should view Radio First as a direct barrier to entry because the resultant disparity in ratings will all but cripples minority broadcasters' ability to compete in

²⁶ *Id.* at 5941-42.

the market. For this reason, the Commission should exercise its 403 authority to determine whether the commercial release of PPM will jeopardize its initiatives regarding minority ownership and whether the impact of Arbitron's flawed methodology establishes a new barrier to entry for minority broadcasters in the market.²⁷

III. THE COMMISSION HAS JURISDICTION TO CONDUCT AN INQUIRY PURSUANT TO SECTION 403 OF THE COMMUNICATIONS ACT

Section 403 grants the Commission broad authority to investigate any matter for the purpose of obtaining information necessary or helpful in the determination of its policies. If, as asserted by the PPMC, implementation of Arbitron's flawed methodology will gravely impact broadcast diversity and the diversity of media voices within the U.S. radio market, the Commission must investigate these claims because they strike at the very heart of the Commission's policies on diversity of media ownership.

Further, for investigative purposes, as contemplated under Section 403, the Commission has jurisdiction to make an inquiry into the actions of a third party-non-licensee, in particular one whose behavior so thoroughly affects the broadcast industry.²⁸ Moreover, the Commission itself

²⁷ See, e.g., Broadcast Localism, MB Docket No. 04-233, Report and Notice of Proposed Rulemaking, 23 FCC Rcd 1324, 1356 (2007) (expressing the Commission's plans to promote diversity for "new entrants and small businesses, including minority- and women-owned businesses").

²⁸ That authority is self-evident from the broad language of Section 403:

Inquiry By Commission on Its Own Motion. The Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Commission shall have the same powers and authority to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint or petition under any of the provisions of this Act, including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had, excepting orders for the payment of money.

Section 403 is implemented by 47 C.F.R. § 1.1, which provides:

(cont'd)

relies upon Arbitron data in its ownership rules; therefore it has a vital interest in ensuring that Arbitron ratings data is accurate, fair and reliable.²⁹

A Section 403 inquiry could assess the methodological problems identified by the MRC and others and analyze their impact on minority broadcasters, the broadcast industry as a whole and the Commission's own recent initiatives to promote minority ownership in broadcasting. Given its current open proceedings involving Broadcast Diversity and Localism, the Commission's rules and policies may be directly affected by the outcome of the investigation.

IV. CONCLUSION

The Commission has both the authority and the justification to open a formal 403 investigation into the alleged methodological flaws of Arbitron's Radio First PPM services. Specifically, the answers to the numerous questions surrounding Arbitron's PPM product have bearing on the Commission's existing rules and policies. Accordingly, the Commission should launch a formal investigation as soon as possible to assess the impact of Arbitron's PPM services on the radio broadcast industry. Given the importance of Arbitron's rating services to the radio broadcast industry, it is imperative that the Commission evaluate PPM and determine whether

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Proceedings before the Commission. The Commission may on its own motion or petition of any interested party hold such proceedings as it may deem necessary from time to time in connection with the investigation of any matter which it has power to investigate under the law, or for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties or the formulation or amendment of its rules and regulations. For such purposes it may subpoena witnesses and require the production of evidence. Procedures to be followed by the Commission shall, unless specifically prescribed in this part, be such as in the opinion of the Commission will best serve the purposes of such proceedings.

²⁹ See 47 C.F.R. § 73.3555. Arbitron's ratings data can be utilized in determining how many independently owned media voices remain in a given market (*e.g.*, the radio-television cross-ownership rules permit an independently owned out-of-market radio stations with a minimum share as reported by Arbitron to be counted as a remaining media voice.)

Arbitron's rush to market is counterproductive to the health and diversity of the broadcast industry and ultimately, harmful to radio listeners nationwide.

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MRC Statement on Philadelphia and New York PPM

New York, NY – February 28, 2008

Arbitron has applied to the Media Rating Council (MRC) for accreditation of its Portable People Meter (PPM) Services in Philadelphia and New York. These markets are the first to use Arbitron's Radio First methodology.

Independent external audits of the Philadelphia and New York PPM Services were completed during 2007 and an MRC audit committee, comprised of MRC members representing a large number of users of the PPM services, including radio stations and groups, advertisers, agencies, and trade associations, met on multiple occasions to review and discuss the results of the audits. Additionally, Arbitron subsequently interacted with the audit committee to respond to audit questions and audit committee concerns.

After careful consideration of the available information, the audit committee voted not to grant accreditation to the Philadelphia and New York PPM Services at this time and to conclude the 2007 audits. Moving forward the MRC will be assessing the impact of Arbitron's planned initiatives for improving panel results in these markets to eventually enable successful completion of the accreditation process. As part of the accreditation process a new audit will be required in 2008. These conclusions were recently ratified by both the MRC Radio Committee and the MRC Board of Directors.

The MRC believes that electronic measurement such as Arbitron's PPM technology can represent an improvement over existing non-electronic audience measurements, and encourages Arbitron to continue in its extensive good faith efforts to achieve accreditation of the Philadelphia and New York Services.

Arbitron continues to work with the MRC to implement plans designed to address the audit committee's questions and Arbitron indicates that it plans to continue to participate in the MRC process, including completion of the 2008 audit efforts at the earliest possible time.

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EXHIBIT 2

**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.
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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.
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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 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.
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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.
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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."
 - 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.).
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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.
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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.
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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 A10 and B2

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":
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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 A10.
 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 B2, 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 A10 and B2.
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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)
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