

**Before the
House Committee on Oversight and Government Reform
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Written Testimony of David Honig, President and Executive Director, Minority Media and Telecommunications Council

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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