Testimony
of
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Before the
Federal Communications Commission
***En Banc* Hearing**
and
Conference on Overcoming Barriers to Communications Financing

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Good Morning Chairman Martin and commissioners. Thank you for inviting me to testify this morning.

NABOB is the only trade association representing the interests of the 245 radio and 13 television stations owned by African Americans across the country. The association was organized in 1976 by African American broadcasters who desired to establish a voice and a viable presence in the industry to increase minority station ownership and to improve the business climate in which these stations operate.

Throughout our existence, NABOB has been involved in the Commission's efforts to promote equality of opportunity in the ownership and control of broadcast facilities among all Americans. We have had many successes over the years. The creation of the tax certificate in 1978 led to an increase in African American ownership of broadest stations from 40 radio stations and 1 television station to 240 radio stations and 20 television stations 1995. Unfortunately, Congress repealed the tax certificate in 1995, and in 1996 enacted the Telecommunications Act. These two actions allowed a massive consolidation of ownership in the broadcast industry, resulted in a 40% decrease in the number of minority companies owning broadcast facilities, and created substantial impediments to the ability of new minority entrepreneurs to acquire broadcast stations. Fortunately, some minority owned companies were able to grow during this period of consolidation so that the aggregate number of stations owned by African Americans did not fall as precipitously as the fall in the number of companies owning stations. However, many of the stations that were sold were the only stations serving African American audiences in their communities and those communities have been left without a voice.

Before I address the issues in today's hearing, I wish to thank you for the policy changes adopted in your recent Diversity Order, particularly, the decision to require nondiscrimination provisions in all broadcast advertising contracts. "No urban" and "no Spanish" dictates have been a barrier to fair advertising opportunities for minority owned stations for many years. This should help eliminate those practices.

Also, I wish to thank you for endorsing the reinstatement of the tax certificate by Congress. Senator Robert Menendez announced last week that he is introducing a bill to reinstate the tax certificate. In addition, Congressman Charles Rangel and Congressman Bobby Rush have each introduced tax certificate restoration bills in the House. We look forward to working with each of these members of Congress in getting the tax certificate restored.

I thank you for convening this hearing today to receive information about the barriers to communications financing for minorities and women. For minorities, financing has always been a significant barrier to ownership of broadcast facilities, and the current turmoil in the capital markets is adding increased difficulty for minority entrepreneurs. I am certain you will receive important insights on the capital markets from the expert panelists you have assembled today.

I would like to address the financing issue from another perspective. In order to obtain financing, prospective minority broadcast station owners must demonstrate that they will be able to generate the advertising revenues needed to operate a profitable business. Advertising revenues in the radio industry are driven by the audience measurement results reported by Arbitron.

Arbitron maintains a monopoly over the business of measuring the audiences of radio stations, which means that, if radio stations do not subscribe to the Arbitron ratings service, those stations will have no ratings data to present to advertisers who purchase advertising time on radio stations. It also means that, if Arbitron under measures your audience, you will be forced to accept lower advertising rates than you deserve. In short, radio stations live and die according to the audience ratings and market ranks reported by Arbitron.

It is for this reason that NABOB is asking that the Commission investigate Arbitron's new Portable People Meter ("PPM") audience measurement system. We request this investigation, because it appears that the PPM methodology is critically flawed, and this flaw has resulted in a clear bias against the reporting of minority audiences. Initial results from the PPM measurements have shown such huge rating declines for stations serving Black and Hispanic audiences that the financial survival of these stations will be at stake if Arbitron continues to implement PPM across the nation in the form it has been initially introduced.

When Arbitron first introduced PPM in Houston and Philadelphia, the leading stations serving African American and Hispanic audiences experienced steep ratings declines. NABOB has been meeting with Arbitron for over a year to address deficiencies in the PPM methodology that appear to be causing these declines. However, after a year of discussions, Arbitron has failed to rectify the deficiencies in PPM.

Attached to my testimony is an exhibit which graphically demonstrates the extent of the problem. Arbitron has announced that it will implement PPM in four markets in September 2008. PPM test data in three of those markets, New York, Chicago and Los Angeles is shown in the exhibit. What the exhibit shows is that virtually all of the stations serving African American and Hispanic communities experienced average quarter hour (AQH) ratings and market rank declines.

In particular, the exhibit shows that 16 out of 17 stations serving African American and Hispanic communities, which were ranked in the top ten in their markets in the diary, experienced significant market rank declines in PPM. On the other hand, the exhibit also shows that **every** general market station either maintained its diary rank or experienced a market rank increase in PPM.

These market rank and ratings declines could have serious financial consequences for the stations serving African American and Hispanic communities.

One clear cause of these audience declines is Arbitron's deficiencies in the recruitment, retention and participation of young African Americans and Hispanics in the sample panel, and these deficiencies have resulted in a significant underrepresentation of young African Americans and Hispanics in the PPM panel results. In addition, PPM's attribution of sporadic listening, and the lack of a metric that reflects listener engagement also add to the underrepresentation of minorities in the panel results.

However, it seems clear that there are other not so obvious factors affecting these ratings declines. NABOB suspects that these additional factors have been uncovered in the Media Rating Council ("MRC") accreditation review. The MRC is the industry group that accredits audience research used in the advertising industry. The MRC was created by the advertising industry in response to a request from Congress.

Arbitron has been denied accreditation by the MRC in both New York and Philadelphia.[1] The failure of Arbitron to obtain MRC accreditation for PPM in Philadelphia and New York is a situation that calls for investigation by the Commission, because that failure suggests that there are other deficiencies in the methodology that are not yet apparent. NABOB therefore requests that the Commission investigate the PPM methodology and obtain information on the PPM accreditation process from Arbitron and the MRC.

The MRC's accreditation process is very confidential, and the MRC has provided no public information on its reasons for denying PPM accreditation. However, in an analogous situation, the MRC provided its confidential information to Congress, when Congress investigated Nielsen's electronic audience measurement service.

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[1] While Arbitron has received PPM accreditation by the MRC in Houston, the Houston methodology is not being used in any other markets. The Houston PPM methodology was developed by Arbitron and Nielsen, when they were exploring the joint provision of electronic audience ratings data. When the two companies decided not to work together, Arbitron abandoned the Houston methodology and developed the PPM methodology that was denied accreditation in Philadelphia and New York.

NABOB requests that the Commission undertake a similar investigation regarding PPM. The issue to be investigated is whether the PPM system is having or will have a detrimental or discriminatory effect upon stations serving minority audiences. This would be a fact finding inquiry, not an effort to assert regulatory jurisdiction over Arbitron or the MRC.

NABOB submits that the Commission should ask Arbitron and the MRC to produce: all correspondence, meeting minutes, requests for information, and all other communications between Arbitron and the MRC regarding: (a) the 2007 accreditation process for the Philadelphia and New York PPM methodologies, which resulted in a denial of accreditation, (b) the 2008 accreditation process for the Philadelphia and New York PPM methodologies, which is pending, and (c) all other accreditation applications submitted by Arbitron for the PPM methodology in any other market.

NABOB requests that the Commission ask Arbitron and the MRC:

- Why is there such a large discrepancy between the ratings results for radio stations serving African American and Hispanic audiences under the diary methodology versus the PPM methodology?

- Why has Arbitron consistently failed to reach the targets that Arbitron sets for young African Americans and Hispanics in their survey results?

- What is Arbitron doing to reach its targets for young African American and Hispanic listeners?

- Why is Arbitron unwilling to await Media Rating Council accreditation before making PPM methodology currency in additional markets?

- What is the status of each of Arbitron's accreditation applications for PPM in Philadelphia and New York, and what is the status of any accreditation applications filed for any other markets?

- What objections, problems and concerns has the MRC raised regarding Arbitron's 2007 and 2008 accreditation applications in Philadelphia and New York, and its accreditation applications pending for any other markets?

Conclusion

If Arbitron is allowed to move forward issuing flawed reports on African American and Hispanic audiences, it will result in huge financial losses for the radio stations serving those audiences and might even force some stations out of business. This would be a tremendous loss for the communities that rely on those stations. The stations serving the African American and Hispanic communities are the voices of those communities. They carry the messages of those communities on social, political, economic, health, and all other issues of concern to those communities. Without stations serving them, the African American and Hispanic communities will become even more isolated and ignored by mainstream media than they are already. Therefore, defective ratings information being spread by Arbitron is more than a business crisis for African American and Hispanic station owners; it is a civil rights crisis for all of America.

We thank you in advance for considering this request, and we look forward to working with you to investigate and rectify this very serious situation.

Thank you for the opportunity to appear before you today.

Diary vs. Portable People Meter
Sp' 08 vs. June 2008
Urban and Hispanic Stations

	NY Spring 2008 Diary		June PPM		Variance
	AQH Rtg %	Rank	AQH Rtg %	Rank	%
WSKQ	0.6	4t	0.4	6t	-34%
WRKS	0.5	8t	0.4	6t	-20%
WQHT	0.6	4t	0.4	6t	-34%
WWPR	0.6	4t	0.4	6t	-34%
WBLS	0.5	8t	0.3	13t	-40%
WPAT-FM	0.5	8t	0.3	13t	-40%
WCAA	0.2	22t	0.2	19t	flat
WLIB-AM	0.2	22t	0.1	22t	-50%
WQBU	0.1	25t	0.1	22t	flat
WADO-AM	0.1	25t	0.1	22t	flat
WBGO	0.7	1t	0.1	22t	-86%
	General Market Leaders				
WLTW	0.7	1t	0.5	1t	-29%
WHTZ	0.7	1t	0.5	1t	-29%
WCBS-FM	0.5	8t	0.5	1t	flat
WAXQ	0.4	13t	0.5	1t	25%
WABC-AM	0.5	8t	0.5	1t	flat

	Chicago Spring 2008 Diary		June PPM		Variance
	AQH Rtg %	Rank	AQH Rtg %	Rank	%
WVAZ-FM	0.6	3t	0.4	6t	-34%
WLEY-FM	0.4	9t	0.3	10t	-25%
WOJO-FM	0.6	3t	0.3	10t	-50%
WGCI-FM	0.9	1t	0.3	10t	-67%
WPPN-FM	0.4	9t	0.2	19t	-50%
WPWX-FM	0.4	9t	0.1	27t	-75%
WVIV-FM	0.3	17t	0.1	27t	-67%
WCCQ-FM	0.1	29t	0.1	27t	flat
WSRB-FM	0.1	29t	0.1	27t	flat
WRTO-AM	0.1	29t	0.0	42t	-100%
WYCA-FM	0.0	30	0.0	42t	flat
	General Market Leaders				
WGN-AM	0.9	1t	0.8	1	-12%
WDRV	0.4	9t	0.6	2t	33%
WBBM-AM	0.6	3t	0.6	2t	flat
WTMX	0.4	9t	0.5	4t	20%
WUSN	0.4	9t	0.5	4t	20%

	L.A. Spring 2008 Diary		June PPM		Variance
	AQH Rtg %	Rank	AQH Rtg %	Rank	%
KLVE-FM	0.8	1	0.4	3t	-50%
KSCA-FM	0.7	2t	0.4	3t	-43%
KRCD-FM	0.5	7t	0.3	9t	-40%
KLAX-FM	0.5	7t	0.3	9t	-40%
KBUE-FM	0.5	7t	0.3	9t	-40%
KSSE-FM	0.2	22t	0.2	20t	flat
KLYY-FM	0.1	29t	0.2	20t	50%
KHJ-AM	0.2	22t	0.1	27t	-50%
KWIZ-FM	0.1	29t	0.1	27t	flat
KTNQ-AM	0.2	22t	0.0	41t	-100%
KJLH-FM	0.2	22t	0.0	41t	-100%
KLTX-AM	0.1	29t	0.0	41t	-100%
	General Market Leaders				
KIIS	0.7	2t	0.6	1	-12%
KFI-AM	0.6	4t	0.5	2	-16%
KRTH	0.5	7t	0.4	3t	-20%
KOST	0.6	4t	0.4	3t	-34%
KROQ	0.5	7t	0.4	3t	-20%

Source: Arbitron NY, Chicago, Los Angeles Spring 2008 Diary vs. June PPM data; P12+ M-S 6a-12m