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Via FedEx

July 29, 2004

The Honorable Charles E. Schumer  
United States Senate  
313 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Schumer:

Thank you for meeting last week with, among others, Paul Donato, the Chief Research Officer for Nielsen Media Research, to discuss Nielsen's introduction of electronic People Meter measurement into the major U.S. markets. Before addressing the specific points in your letter, I want to make two observations.

First, I want to assure you that Nielsen is committed to ensuring that all television viewers are fully and fairly represented by our TV ratings systems. We have been doing this – every day – for more than 50 years, and we think we provide a fair, impartial and accurate account of who is watching what program or what station or cable channel.

The second observation concerns the People Meter itself. The People Meter is the most accurate, the most reliable data collection technology in use anywhere in the world today. Our intention, announced four years ago at the request of our clients, is to introduce People Meter service into the major local television markets (as a replacement to the existing set-meter/diary system) so that the local data collection technology conforms to the national data collection technology. As I am sure you can imagine, having access to overnight demographic ratings information is a huge advantage to buyers and sellers of television time, and, of course, a competitive advantage for television over all other forms of commercial media. This is why the vast majority of our clients – advertisers, agencies, networks, stations, cable systems, media buyers and planners, producers, etc. – are so anxious for Nielsen to expand the electronic service.



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Let me turn now to the specific concerns raised in your letter.

## 1. Allegations of minority undercounting by Nielsen's LPM technology

While I am aware of the accusations by some that Nielsen undercounts persons of color in its research samples, I am unaware of any evidence to support this claim. In fact, the opposite is true. Let me focus on three specific areas of our research.

More Viewing Choices -- As you may be aware, when the campaign against us first began in March, the only justification for the "undercount" claim was that People Meter ratings in New York were down for some shows with African-American or Hispanic appeal compared to the set-meter/diary system. As we began analyzing the data, we discovered that African Americans and Hispanics were watching many more channels and many different programs than was being recorded in the paper diaries. So there was an understanding as to what happened to the audience for these programs: they went elsewhere. Here are some of the highlights from the New York LPM data we released at the end of March immediately after the campaign against us began:

- African Americans in New York spent 54.2% of their viewing time on cable programming in March; in contrast, the paper diary system reported that African Americans spent 39.2% of their time watching cable. Similarly, LPMs found that Latinos spent 43.8% of their time watching cable, compared to the 34.6% that paper diaries reported.
- Overall in March, viewership among Latino viewers in New York increased for 80 networks and decreased for 17 under the LPM system. Among African American audiences, LPM viewership increased for 90 networks and decreased for 19.
- Among African American viewers, total day viewing for BET is up 180% under LPMs. African American viewing increased more than 100% for a number of other networks, such as ESPN, LMN, Telefutera, Pax and Starz.
- Among Latino viewers, Telemundo and Telefutera ratings are up 22% and 83%, respectively, under LPMs, while cable access channels and the HBO Zone pay channel are up over 100%.

Despite the release of these data, the campaign of disinformation against Nielsen continued unabated.



Sample Composition -- We also looked at the composition of our samples, and found no “undercount” there. When we compare the ethnic and racial compositions of persons in our LPM samples in New York, for example, we find that the number of African Americans and Latinos exceeds the population estimates (see information enclosed).

**New York TV Market**

Demographic	Total New York TV Market	Set-Meter Sample	LPM Sample
African-American	17.3%	16.9%	19.6%
Latino	16.1%	15.0%	17.8%
Asian	6.7%	4.5%	4.5%

**Los Angeles TV Market**

Demographic	Total Los Angeles TV Market	Set-Meter Sample	LPM Sample
African-American	8.8%	10.3%	9.1%
Latino	31.3%	28.4%	33.4%
Asian	10.9%	7.4%	9.8%

**Chicago TV Market**

Demographic	Total Chicago TV Market	Set-Meter Sample	LPM Sample
African-American	17.5%	17.2%	19.5%
Latino	12.4%	12.2%	12.2%
Asian	4.2%	1.9%	3.5%

**Boston TV Market**

Demographic	Total Boston TV Market		LPM Sample
African-American	5.0%		6.7%
Latino	4.8%		4.2%
Asian			

*(The People Meter service was launched in Boston in April 2002)*

**Note:** Sample characteristics are for the week of 7/12/04 - 7/18/04



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Fault Rates -- We looked at fault rates within sample homes. For a sample household's viewing information to be included in the ratings for the day, Nielsen examines the tuning and persons information collected from each household daily to evaluate its accuracy and completeness. A household may fault or go out of tabulation for a variety of reasons, including unplugged meters or improper use of the People Meter, or perhaps the household has bought a new TV set or new attachments (VCR or DVR or satellite connection) and we receive a communications error message from the equipment. Our clients do not want such incomplete information included in the data that is used as currency. The good news about faulting in a metered panel is that we know right away when something is wrong and can fix it. Also, fault rates in a metered system are transparent to all clients – we publish fault information every week. With a paper diary system, however, incomplete or missing data are lost, entirely.

Faulting is not new, or unique to Local People Meters. Nielsen has been operating metered panels in the US since 1950. Better equipment, better training and larger sample sizes help offset the effects of faulting, particularly among African-American or Hispanic households.

In all of our samples, African American and Hispanic fault rates are higher than the average. The reason is that homes that watch more television are more likely to fault. It has nothing to do with race or ethnicity or our ability to service requests to these homes. African American and Hispanic households are larger than other households and this is one of the base reasons for the higher levels of viewing in these households.

The reason that the amount of television viewing drives fault rates is that in households with more television viewing, there are more television sets. More television sets mean that there is a greater chance that one of them will be unplugged or that someone might tune to cable channel that has recently changed its lineup number. In these cases, we receive an unidentified source flag and take the household out of tabulation until it is corrected. This is the way our clients want the data reported.

As part of the Media Rating Council accreditation process, Ernst & Young conducted an audit of the New York LPM system. The audit found that at one point the fault rate for African-American households temporarily reached 25%, compared to an overall average of 16%. (Some of this may have been due to the active campaign to discredit Nielsen in communities of color.) Since late May, fault rates have been well within target levels and consistent with fault rates in our National People Meter Sample (16-18%).



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## 2. MRC accreditation

There are two issues involved here. One concerns those services that have or have not been accredited by the Media Rating Council, and the other issue concerns Nielsen's decision to begin a service before it applies to the MRC to accredit that service.

Your letter states that we are rolling out Local People Meter service "despite the fact that the Media Rating Council has not yet accredited the Local People Meter methodology and technology." The MRC first accredited Nielsen's People Meter methodology and technology in 1988 for our national service, and has done so every year thereafter. The MRC accredited the People Meter methodology and technology for the Boston market (local service) in 2002. Boston was the first local market to receive the service. The People Meter service, however, has not yet been accredited in New York (the MRC voted earlier this summer to withhold accreditation in New York until certain issues were resolved), and we are working with the MRC to gain accreditation.

Your related question concerned Nielsen's decision to begin a service before applying to the MRC to accredit that same service. While we acknowledge the concerns of individuals and groups who have asked us to postpone our LPM launches until after we gain accreditation by the MRC, we believe that doing so would raise antitrust issues.

The Media Rating Council, which was formed in 1964 at the urging of the United States Congress, is an independent, non-profit industry association created to maintain the quality and credibility of audience research by securing audience measurement services that are valid, reliable and effective. MRC members include television and radio broadcasters, cablecasters, print organizations, advertisers, Internet organizations, advertising agencies and industry trade associations.

Among its various responsibilities, the MRC offers all research firms an opportunity to participate in a voluntary program for accreditation of their ratings services, which are voted on by those members representing the media and advertising industries. The MRC consists of fiercely competing firms with different commercial interests affected by the adoption or delay of audience measurement innovations. A majority vote to deny or withhold not only accreditation but also the commercial launch of a technology such as the Local People Meter - which would be to the competitive benefit of some and the disadvantage of others - would present a restraint of trade. For precisely this reason, the antitrust clearance the MRC received in 1964 was very limited, and was expressly predicated upon the accreditation process being voluntary rather than mandatory.



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To emphasize that point, the MRC's Procedures for Accreditation specifically state that: "Neither these Procedures nor the criteria shall preclude the offering of electronic media

audience measurement information by a Service that is not accredited, nor shall the Procedures or Criteria prevent any person, firm or corporation (whether or not a member of the Council) from purchasing or using such information."

We have consulted with well-known antitrust experts who have advised us that these antitrust concerns also apply to the notion of obtaining accreditation before launching the service in any of our local markets. Instead, as has been done for the past 40 years, and consistent with the antitrust restrictions recognized by the MRC at that time, it is our intention to launch our service, then seek MRC accreditation in each market.

### **3. Nielsen's joint venture relationship with BBM in Canada and BBM's implementation of the Arbitron Portable People Meter**

Your questions to us on this subject appear to be based (1) on unclear reports in the news media with respect to the Nielsen-BBM Joint Venture agreement, and (2) an overestimation by some industry sources about the current readiness of the PPM system to serve as the currency for television audience measurement. I will summarize by saying: (1) neither Nielsen nor the Joint Venture is deploying the Arbitron Portable People Meter (PPM) technology in Canada, and (2) Nielsen Media Research and Arbitron have jointly been testing the Portable People Meter system in the U.S. for the past two years. We do not believe that the PPM system is ready yet for commercial deployment as the currency of television measurement, and I am including more details below and as an attachment to this letter about our ongoing work with Arbitron.

Let me begin, first by highlighting the major points of the agreement between BBM and Nielsen Media Research in Canada:

- Under the terms of the Canada Joint Venture, which is subject to regulatory approval, Nielsen Media Research and BBM plan to operate a National television measurement service in Canada as well as local measurement service in Vancouver, Toronto, Calgary and the Ontario region. The technology used in these markets will be Nielsen Media Research's People Meter, which has been used for television ratings in the U.S. and Canada for a number of years.



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- The Canada Joint Venture involving BBM and Nielsen Media Research is in response to Canadian clients' requests to find ways for both companies to work together to eliminate the confusion and costs associated with having two different ratings services in any single market.
- BBM will use Arbitron's Personal People Meter (PPM) for the Quebec region, which is not part of the Joint Venture at this time, and will be operated solely by BBM. The choice to deploy PPM in Quebec was solely BBM's.
- With regard to the future, both JV partners will continue to evaluate all alternative technologies, including PPM and Nielsen's Active/Passive meter, to determine if they meet the standards of the Canadian television industry.
- For the last several years, Nielsen Media Research has been evaluating Arbitron's PPM technology in the U.S. The decision by BBM to utilize the PPM technology in Quebec will not change Nielsen's due diligence plans, which were made at the request of U.S. television clients.

With this as background, I will address some of the specific references and questions in your letter concerning the Arbitron PPM system, at least as far as Nielsen is concerned.

*"It is reported that such a system (PPM) would more accurately measure audience viewership (especially out-of-home viewing) than Nielsen's current system, which requires active involvement from participants and may lead to unacceptably high 'fault rates.'"*

At this point in the R&D program, testing has not demonstrated that the PPM will more accurately measure television audiences. Therefore, we do not believe, at this point, that the PPM system is ready to serve as a currency for the television industry, and I believe that it is fair to say that the majority of our clients think the same way we do. The major issues, from Nielsen's standpoint, involve unintended audience crediting, accuracy, cooperation and unacceptably high fault rates. (At this point in the PPM research process, we are seeing much higher fault rates in the PPM system than the LPM system. For example, a high – 25% – proportion of respondents fail to carry their PPM on a given day.) We are working through these issues, however, and our engineering and methodological research teams will continue to work with Arbitron in the U.S. In the near term, Nielsen does agree that the PPM system has attractive possibilities for out-of-home measurement, and may provide some further opportunities in custom applications.



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*“I am concerned that Nielsen is deploying a passive audience measurement system in Canada while it continues with its rollout of LPM technology in the United States...”*

Nielsen is not deploying a passive audience measurement system in Canada. The Arbitron PPM system, which has been licensed to BBM, is for BBM’s use in Quebec and Montreal. Nielsen has not endorsed the PPM system in Canada or anywhere else. We are testing it in the U.S. Also, while the PPM system may intuitively seem more “passive” than Nielsen’s button-pushing People Meter, it is not a clear how “passive” it actually is. People have to wear it or carry it with them at all times, and remember to place it in the docking station every night so the data can be downloaded. The PPM is certainly “portable” but not necessarily “passive.”

In Canada, the PPM system apparently has the support from the broadcasters (the measured media) who are the “sellers” of advertising. These broadcasters make up the majority of BBM’s membership. However, the “buyers” of advertising (the advertisers and their agencies) represented by the Association of Canadian Advertisers has issued a paper detailing a number of concerns about the PPM, declaring that it will not endorse the PPM until a number of tests have been conducted. In fact, the ACA has just issued an “alert” to its members discouraging use of PPM data for buying advertising. (Information attached.) So it remains to be seen how commercially successful the PPM will be in these markets.

*“What differences, if any, exist between U.S. and Canadian markets that justify using passive people meters in one, but not the other?”*

I think this is a question for BBM to answer, since Nielsen sees no justification whatsoever for introducing a PPM system into any market as the currency for commercial television transactions. This opinion, as mentioned above, appears to be shared by the Association of Canadian Advertisers.

*“What factors did Nielsen and BBM Canada consider in determining that use of Arbitron’s passive measurement system is appropriate in Canada?”*

As previously discussed, there were no factors considered, since the PPM deployment is outside the scope of the Joint Venture – at least at this time and until further R&D work is completed – nor does Nielsen agree that the PPM system is appropriate as the TV ratings currency for any market.



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*“What technological barriers, if any, exist to deploying passive measurement tools for television ratings in the U.S. at this time?”*

Nielsen is exploring many technologies as part of our continuing effort to remain on the cutting edge of audience measurement capabilities. In fact, no other media research company in the world has spent more time, money, and management resources pursuing these capabilities. Whether the approach is facial recognition, motion detection, infrared sensing, audio encoding, video encoding, audio signatures, or any number of additional approaches, Nielsen is investigating all these different technologies.

*“Please describe Nielsen’s efforts in making [a] transition to the passive people meter system in U.S. markets. When will this technology be ready for use in the U.S.?”*

For nearly two years, Nielsen Media Research and Arbitron have jointly been testing the Portable People Meter system in the U.S. Although confidentiality agreements have restricted the disclosure of more complete information about those tests, extensive trials in Philadelphia have revealed several areas of concern, which are the subject of further, joint tests. Both companies agree that response rates from Arbitron’s initial PPM market test in Philadelphia were unacceptable, and that a better understanding of in-home and out-of-home audience behavior is needed. In addition, while the system does an excellent job of identifying audio codes, more testing needs to be done to determine how it functions in households with multiple television and radio sets.

I am attaching our report to clients following the first round of testing in 2002, along with a cover letter highlighting some of the conclusions and the scope of the work. For your convenience, however, here is a summary of our work with Arbitron on PPM development:

- 1999-2000: Initial Due Diligence. Soon after Arbitron announced initial results from its test in Manchester, U.K., Nielsen became interested in the potential of the PPM. We soon began negotiations with Arbitron to form a joint venture in the United States, whereby TV and radio clients would share the joint venture’s panel costs. Nielsen conducted initial engineering tests on the encoding technology, but the methodological data available at that time was limited. Nielsen nonetheless entered into an Option Agreement with Arbitron in 2000.



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- 2001-2002 Philadelphia Testing: Nielsen paid additional funding to help support Arbitron's market test of the PPM in Philadelphia. Nielsen had no role in this test, but did review data as soon as Arbitron was able to provide it.
- 2002 Roundtables: In the fall of 2002, Nielsen and Arbitron hosted a series of meetings with clients. Arbitron and Nielsen jointly presented data from Philadelphia and laboratory tests representing one of the most comprehensive presentations of PPM research and engineering issues ever provided to clients. Key clients from both the "buy" (agencies and advertisers) and "sell" (broadcasters and cable) sides of the industry attended.
- 2003-2004 Collaborative tests: Nielsen's clients were concerned with test results shown at the Roundtable meetings, especially with regard to exceedingly low response rates and the potential "spillover" of audio codes beyond the room with a TV. Nielsen's television clients requested that we actively work with Arbitron to further develop and test the PPM. Nielsen agreed and contributed additional funding to Arbitron as well as engineering support, methodology experts, and field force personnel to help make these collaborative tests with Arbitron a reality. We have joint teams working together, often meeting on a weekly basis.

Now, the key question which you, and many of our clients have asked: Will the PPM ever be ready for commercial deployment, and if so, when? While I don't have the ultimate answer, we are working towards an answer on various fronts:

- Testing: By early fall of 2004 we will have completed our collaborative tests on research and engineering issues and shared them with television clients. Clients' reactions to the results could lead us to accelerate commercialization efforts or to continue with another round of testing. By spring of 2005, the Houston test market results (conducted by Arbitron only) will indicate whether the modified methodology tested there delivers the same level of response rates seen in our Philadelphia collaborative test. Finally, over the next 6-9 months, the engineering testing of the PPM, its recent modifications and its future R&D program should be complete.
- Financial Due Diligence: As data from Houston comes in, we can begin detailed financial analyses. Eventually we need to estimate the price increases we will need to charge clients.



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- Market Acceptance: Nielsen has the option right to form a joint venture with Arbitron that serves both television and radio. Both sets of clients need to accept the methodological changes and pricing. (Nielsen does not have enough knowledge of the radio marketplace to understand its issues.)
- Software Systems Development: At some point Nielsen and Arbitron will decide it is worth making the investment in the data collection/processing infrastructure and client reporting systems to turn the PPM from market test to operational service. Nielsen and Arbitron do not currently have a detailed estimate on how much work or time this would involve, so it may or may not impact any larger timetable for deployment.
- MRC Accreditation: The same process that took the Local People Meter several months to complete in Boston has not yet begun with the PPM. Moreover, whereas the MRC is familiar with the Local People Meter technology and methodology due to the many years of use of the People Meter in our National business, the MRC has virtually no experience with the PPM. It is too early to estimate when the accreditation process will be complete, but it may not happen until after PPM data are made available to clients for commercial use.

To summarize, the likelihood of and timetable for PPM commercialization as a currency in the U.S. is not yet clear for either television or radio, despite the considerable efforts of both Nielsen and Arbitron. But to be clear, Nielsen wants to arrive at an answer as soon as possible. Since 2000, Nielsen has invested millions of dollars in the testing, evaluation and development of the PPM. It is the largest investment that Nielsen has ever made in a third-party's technology to which Nielsen did not already own license rights. Obviously, Nielsen would prefer to achieve a return on this investment and as quickly as possible. But we can commit to the PPM only if and when the PPM is ready for deployment.

In closing, I would like to make one observation taken from your final remark that, "the ratings provided by Nielsen are the basis for programming decisions and thus determine what we are able to view on television."

To be sure, the ratings for programs already on the air are an important factor in any program's ability to survive in a highly competitive environment, one in which the average household has at least three TV sets, each capable of receiving more than 100 channels. Ratings also can help programmers determine what kind of shows tend to do well among various audiences. So ratings are an enormously helpful diagnostic tool in the hands of skilled researchers. What Nielsen does not do, however, is determine what gets



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on the air, or what programs go into a network's schedule, or how many persons of color a network hires, or how broadcasters reach out to minority audiences or even how advertisers should target their budgets to reach minority audiences and consumers. We do our very best to estimate who is watching what television program. That's all we do. In the end, our ratings are our opinion, our expression of audience, one based on years of experience, dedication and a commitment to accuracy.

I look forward to our continuing conversations.

Sincerely,

Enc.