

Testimony of

Thomas Herwitz

President, Station Operations, Fox Television Stations, Inc.

Before

United States Senate

Committee on Commerce, Science, and Transportation

Subcommittee on Communications

"Implementation of Nielsen Local People Meter TV Rating System"

Thursday, July 15, 2004

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**253 Russell Senate Office Building
Washington, D.C.**

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Good morning, Chairman Burns, Senator Hollings, and Members of the Subcommittee. Thank you for convening this important hearing to discuss serious concerns about the accuracy and reliability of our country's television ratings system.

This issue is important because it affects the programming that appears on television and the advertising that supports it. FOX and other broadcasters take *very* seriously our obligation to provide programming that meets the needs of our communities and thereby serves the public interest. At the network level, FOX since its inception has been a leader in providing diversity in television programming, and in providing opportunities for minorities in front of and behind the camera. At the local level, FOX's owned stations air almost 900 hours of locally-produced news every week, twice as much as when we bought the stations and twice as much as our

competitors. We are proud that these newscasts are particularly popular among minority viewers. Accurate ratings are crucial to making programming decisions and meeting community needs.

Unfortunately, the TV ratings system upon which we rely is seriously broken. There is no competition in the television ratings business. And there is no system of checks and balances over Nielsen, the monopoly ratings provider, to protect the public. Audits of Nielsen's local people meters in New York and Los Angeles by the independent Media Rating Council (MRC) confirm that Nielsen is **failing to accurately count viewership**, particularly among African Americans, Hispanics, and Asian Americans, whose plea to Nielsen is simply: "don't count us out."

Yet, when the MRC in its audit concluded that Nielsen was not meeting even **minimum** research standards, Nielsen ignored them and moved forward anyway. And when real concerns were raised by representatives of disenfranchised minority viewers, when Tribune, CBS, Univision, FOX, the National Association of Broadcasters, the American Association of Advertising Agencies - and even distinguished Members of Congress – asked Nielsen to stop and fix serious ratings flaws, **Nielsen**

ignored them and forced people meters on the largest and most diverse markets in the country.

As a result, this issue is now about much more than just whether the new ratings system is accurate. It is about the level of oversight necessary to protect consumers from the monopoly practices of Nielsen. The goal **must** be to ensure that **ALL** viewers are counted.

The following three steps are **vital** to achieving an accurate viewer count:

1. Establish an effective system of oversight to ensure that Nielsen is accountable to the public. Nielsen's current status as an unregulated monopoly that answers to no one has led directly to the damaging and unresponsive behavior we all have witnessed.
2. Initiate an independent, detailed study of whether Nielsen's research accurately reflects actual viewing, particularly among minority and young viewers. The MRC audits show there are real problems getting and keeping the Nielsen sample right and getting people to

push buttons, problems that disproportionately affect certain groups.

It is time to put the new rating system to a real test of accuracy.

3. Initiate an inquiry into competition in the television ratings business, including the relationship between Nielsen and its former competitor Arbitron. Arbitron's "passive" rating system **automatically** measures all viewing and eliminates many of the problems found in Nielsen's "button pushing" people meters. Why is Nielsen forcing its people meters on the top markets without even testing the two systems side by side?

Until the flaws in Nielsen's systems are fixed, until real oversight is established, and until these studies are done, the roll-out of the local people meters must be suspended.

In closing, I urge Congress to continue to push for effective oversight of Nielsen, because, at the end of the day, people can only have confidence and faith in a ratings service that has been subject to scrutiny and held accountable for its accuracy.

Thank you for your time and attention.