



Independent
Television

December 30, 1993

The Honorable Anne K. Bingaman
Assistant Attorney General
Antitrust Division
United States Department of Justice
10th and Constitution Ave., N.W.
Washington, D.C. 20530

Re: Request for Business Review
Association of Independent Television Stations, Inc.
Ratings Service Price Monitoring

Dear Ms. Bingaman:

This is to request that the Department of Justice review the following price monitoring proposal and state its intentions with respect thereto.

Background

The Association of Independent Television Stations, Inc. ("INTV"), is a non-profit, incorporated association of independent broadcast television stations (*i.e.*, stations which are not affiliated with the ABC, CBS, or NBC television networks). INTV maintains its principal and sole office in Washington, D.C. Independent stations are located throughout the country. Approximately 465 independent stations currently are in operation. As of November 10, 1993, the Federal Communications Commission reported that 1153 commercial broadcast television stations were in operation in the United States.

Independent television stations derive the bulk of their revenue from the sale of advertising time to local, regional, and national advertisers. Advertising prices on independent stations are based in large part on the estimated size and demographic composition of the stations' audiences at the time the advertising material is broadcast. Audience size and composition estimates, known as "ratings," are derived from surveys of samples of viewers.

Until very recently, two firms had provided audience ratings information to stations and advertisers. Although their measurement and survey techniques were somewhat different, both firms supplied audience data which has been considered reliable by the broadcast industry. Stations and advertisers have utilized data from either or both of the firms in promoting advertising sales and setting prices for advertising time. Stations typically have entered into multi-year contracts with either or both of the firms to acquire ratings data. Consequently, the two firms have been engaged in vigorous competition for sales of audience rating information to stations.

On October 18, 1993, one of the two firms, The Arbitron Company ("Arbitron"), announced it was discontinuing its television ratings service as of December 31, 1993. Therefore, as of January 1, 1994, A.C. Nielsen Company ("Nielsen") will be a monopoly provider of broadcast television ratings information of the type commonly used in the broadcast television industry. No other firm has indicated any intention of entering the television ratings business. Consequently, INTV's member stations now will be required to acquire ratings information only from Nielsen.

Price Monitoring Proposal

In light of the concerns of its members about dealing solely with a monopoly provider of information essential to their ability to do business, INTV wishes to monitor pricing trends for audience ratings information provided by Nielsen.

Specifically, INTV would survey all independent television stations on an annual basis seeking information concerning the prices of ratings information they have contracted to acquire from Nielsen. The only identifying information to be associated with the pricing information would be the date and term of the contract in which the price was set, the market size category of the station, whether the station was a UHF or VHF station, the program format of the station, and whether the station was under contract with Arbitron for provision of television audience ratings on October 18, 1993.

INTV would utilize the following procedures to maintain the anonymity of the responses:

- Each station would receive a cover letter, a "Return Form," and a "Response Form."
 - The cover letter would explain the reason for the request and provide instructions for returning the forms to INTV.
 - The "Return Form" would include the call sign and community of license of the station, a certification that the "Response Form" had been completed accurately and returned in strict accordance with the instructions in the cover letter, and the name and signature of the person responsible for forwarding the "Return Form" and "Response Form" to the station. A draft copy is attached.
 - The "Response Form" would include no reference to the station's call sign, location, or personnel. A draft copy is attached. It would include only the following entries:
 - Identification of the specific ratings information for which the station has contracted with Nielsen

- The date of the contract with Nielsen
- The term of the contract with Nielsen
- The market size category of the station
- Whether the station was a UHF or VHF station
- The program format of the station
- Whether the station was under contract with Arbitron for provision of television ratings information as of October 18, 1993.
- Two separate return envelopes would be enclosed with the letter and forms, one for the "Return Form" and one for the "Response Form".
 - The "Return Form" envelope would be pre-addressed to the Assistant to the President of INTV.
 - The "Response Form" envelope would be pre-addressed to the Vice President, Finance of INTV.
- The instructions would specify return of the forms only via the U.S. Postal Service using the pre-addressed envelopes. No facsimile, overnight delivery service, or other means of transmission or transport which identified the sender would be permitted.
- All "Response Form" envelopes received would be delivered unopened to the Vice President, Finance.
- All "Return Forms" would be delivered unopened to the Assistant to the President.
- The Vice President, Finance would maintain in his office a special confidential file into which all "Response Forms" would be placed and maintained. Only the Vice President, Finance and one specially designated support staff member would have access to the file. The support staff member would be specifically instructed by the Vice President, Finance and the Vice President, General Counsel concerning the need and responsibility to maintain the strict confidentiality of the information contained in the responses. No other officer, director, member, or staff member of INTV would be allowed access to the file.
- The Assistant to the President would receive and maintain a special confidential file into which all "Return Forms" would be placed and maintained. Only the Assistant to the President would have access to the file. No other officer, director, member, or staff member of INTV

would be allowed access to the file.

- The Assistant to the President would be responsible for maintaining a confidential list of stations which had responded. This would permit sending follow-up letters to stations which had failed to respond. Only the Assistant to the President would have access to the list. No other officer, director, member, or staff member of INTV would be allowed access to the list. The Assistant to the President would be solely responsible for preparation and mailing of follow-up letters.
- Any "Return Forms" or "Response Forms" received in a manner other than that prescribed in the instructions in the cover letter which in any way permitted identification of the "Response Form" with the particular station would be directed to the Vice President, General Counsel of INTV. He would return all forms and materials received to the station. No copies of the forms so received would be made or retained by INTV. A brief cover letter from the Vice President, General Counsel, asking that the station return the forms in a manner consistent with the instructions in the original cover letter would be enclosed with the forms returned to the station.

These internal procedures are designed to prevent any association of the "Response Form" information with the identity of the station providing the information reflected in any "Return Form."

INTV would employ the following procedures to maintain the confidentiality of the individual station responses:

- The Vice President, Finance would aggregate the data received from stations and compile an annual report. He would be assisted by the same specially designated support staff person, whose function would be limited to data entry and replication of calculations to assure accuracy and who would be supervised directly by the Vice President, Finance.
- The data would be entered and maintained in a special limited access file on INTV's computer system. Only the Vice President, Finance and the specially designated staff person would be granted access to the file. Access would be limited via a password system. The requisite password would be known only to the Vice President, Finance and the specially designated staff person.
- Only the aggregated data would be included in the report prepared by the Vice President, Finance.
- The report would include only the following statistical information:

- The mean and median price for each type of ratings information provided by Nielsen, as well as the number of stations responding, for each of the following categories:
 - All independent stations
 - Stations which had been under contract with Arbitron on October 18, 1993.
 - Stations which had not been under contract with Arbitron on October 18, 1993.
 - UHF stations
 - VHF stations
 - Date of contract, as follows:
 - Before 1990
 - 1991
 - 1992
 - 1993
 - Each subsequent year
 - Program format, as follows:
 - General audience independent
 - Foreign language
 - Religious
 - Home shopping
- Data from each category also would be reported across market-size ranges as follows:
 - 1-5
 - 6-10
 - 11-20
 - 21-30
 - 31-40
 - 41-50
 - 51-75
 - 76-100
 - 101+

A mock-up of the proposed report is attached. The report would be compiled and distributed to independent stations annually.

Purpose of the Price Monitoring

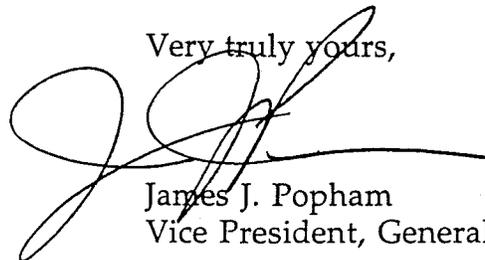
The price information would be compiled to detect pricing trends which reveal price increases which might have resulted from the elimination of competition in the market, as well as possible discriminatory pricing. In the former case, publication of the information as contemplated herein might encourage entry of a competing firm into the market. In the latter case, stations would be in a position to determine whether they are being denied fair access to a product essential to their ability to do business and compete. In such cases, stations could decide unilaterally whether to pursue any remedy under the antitrust or other applicable laws. In either case, competition would be promoted.

INTV's proposal contemplates no other action by INTV with respect to the purchase of television audience ratings data from Nielsen by independent stations. INTV's role would be limited to the collection of data and its dissemination in aggregated form, as described above.

This is a matter of immediate and enormous concern to independent stations. INTV happily would provide any additional information or clarifications you might need in reviewing its proposal. INTV also readily would consider any suggested modifications which would facilitate the Department's stating its intentions as requested herein.

If the Department is unwilling to state its intentions as requested by INTV, then INTV would urge the Department to conduct its own review of the pricing behavior of Nielsen with respect to its sale of television ratings information.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Popham', with a long horizontal flourish extending to the right.

James J. Popham
Vice President, General Counsel

INTV TELEVISION RATINGS PRICE SURVEY

STATION RESPONSE FORM

Please, return this form only in the envelope marked "Response Form."

Do not enclose this "Response Form" with your "Return Form."

Please, check the station's market size:

1-5	6-10	11-20	21-30	31-40	41-50	51-75	76-100	100+

Please, check the station's frequency type:

UHF	VHF

Please, check the station's program format:

GENERAL AUDIENCE	HOME SHOPPING	FOREIGN LANGUAGE	RELIGIOUS	OTHER

Please, provide the requested information with respect to each A.C. Nielsen television rating product used by your station since 1988:

PRODUCT	CONTRACT DATE	CONTRACT TERM	PRICE
			\$
			\$
			\$

	If the station has not acquired television ratings data from A.C. Nielsen since 1988, please, check this box.
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	If the station was under contract with Arbitron for the provision of television ratings data as of October 18, 1993, please, check this box.
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INTV TELEVISION RATINGS PRICE SURVEY

STATION RETURN FORM

Please, return this form only in the envelope marked "Return Form."

Do not enclose this "Return Form" with your "Response Form."

CALL SIGN	
COMMUNITY OF LICENSE	

I hereby certify that the Station Response Form prepared for this station was completed accurately and is being returned to INTV under separate cover in accordance with the instructions accompanying the forms.

Name

Title

Date

INTV TELEVISION RATINGS PRICE SURVEY

**Table 1. Mean/Median Contract Prices for Local Ratings
by Station Type**

Station Type Market Size	All Independent Stations	UHF Stations	VHF Stations
1-5			
6-10			
11-20			
21-30			
31-40			
41-50			
51-75			
76-100			
101+			

**Table 2. Mean/Median Contract Prices for Local Ratings
by Station Format**

Station Format Market Size	General Audience	Foreign Language	Home Shopping	Religious	Other
1-5					
6-10					
11-20					
21-30					
31-40					
41-50					
51-75					
76-100					
101+					

**Table 3. Mean/Median Contract Prices for Local Ratings
by Contract Date**

Station Format Market Size	Before 1990	1991	1992	Before 10/18/93	After 10/18/93
1-5					
6-10					
11-20					
21-30					
31-40					
41-50					
51-75					
76-100					
101+					

**Table 4. Mean/Median Contract Prices for Local Ratings
by Station Use of Arbitron/Neilsen Ratings**

Market Size	Used Arbitron as of 10/18/93	Did not use Arbitron as of 10/18/93	Did not use Nielsen as of 10/19/93
1-5			
6-10			
11-20			
21-30			
31-40			
41-50			
51-75			
76-100			
101+			