

**ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDER
TO AID PUBLIC COMMENT
In the Matter of Nielsen Holdings N.V. and Arbitron Inc.
*File No. 131 0058***

Introduction

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an Agreement Containing Consent Order (“Consent Agreement”) from Nielsen Holdings N.V. (“Nielsen”) and Arbitron Inc. (“Arbitron”). The purpose of the proposed Consent Agreement is to remedy the anticompetitive effects that would otherwise result from Nielsen’s acquisition of Arbitron. Under the terms of the proposed Consent Agreement, Nielsen is required to divest and/or license certain technological assets (including intellectual property) and data to an acquirer approved by the Commission (“Acquirer”), enabling the Acquirer to develop and provide a national syndicated cross-platform audience measurement service.

The proposed Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make it final.

Pursuant to an Agreement and Plan of Merger dated December 17, 2012, Nielsen proposes to acquire Arbitron for approximately \$1.26 billion. The Commission’s complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by lessening competition in the market for national syndicated cross-platform audience measurement services.

The Parties

Nielsen, headquartered in New York, New York and Diemen, the Netherlands, is a leading global media measurement and research company. In the United States, Nielsen provides television, online, mobile, and cross-platform audience measurement services to media companies, advertisers, and advertising agencies. Nielsen is the dominant provider of television audience measurement services¹ in the United States. In 2012, Nielsen generated global sales of \$5.6 billion, about half of which it derived from business in the United States.

Arbitron, headquartered in Columbia, Maryland, is a leading media measurement and research company. Arbitron’s radio ratings, which also estimate listenership size and demographic composition, are the standard metric used by radio broadcasters and advertisers to buy and sell radio advertising. Arbitron also offers products that measure television, online, mobile and cross-platform audiences. Almost all of Arbitron’s 2012 revenue of \$449 million was derived from business within the United States.

¹ Nielsen’s television audience ratings provide the size and demographic composition of the audiences for television programming, and are the primary currency by which the buying and selling of commercial airtime is negotiated.

The Relevant Product and Structure of the Market

The proposed acquisition would harm competition for national syndicated cross-platform audience measurement services. The proliferation of personal computers, smartphones and tablets has dramatically changed the way in which U.S. consumers are exposed to advertising and programming. As a result, advertisers and media companies desire cross-platform audience measurement services that measure audiences *across* multiple media platforms, as opposed to services that report audiences for a single media platform, such as television, in isolation. Cross-platform audience measurement services report the overall unduplicated audience size (i.e., reach) and frequency of exposure for programming content and advertisements across multiple media platforms, with corresponding individual-level audience demographic data. A syndicated national cross-platform audience measurement service is one that provides all subscribers with the same universe of data, showing the relative audiences across platforms for various programming content and advertising.

To be competitively viable, a national syndicated cross-platform audience measurement service must include two key features. First, it must have an accurate and widely-accepted television audience measurement component, as television viewing represents the vast majority of media consumption and accounts for the majority of advertising dollars. Second, a national syndicated cross-platform audience measurement service must report individual-level demographic data. Advertisers need individual-level demographic data in order to determine which programming content is most likely to deliver audiences within their desired category of potential customers and to make advertising campaign placement and media buying decisions. Similarly, media companies need individual-level demographic data to assess the value of their own advertising inventory and to inform programming decisions.

Although there is no national syndicated cross-platform audience measurement service today, demand for such a service by advertisers and media companies is increasing rapidly. Nielsen and Arbitron are developing national syndicated cross-platform audience measurement services. Nielsen currently provides Cross-Platform Campaign Ratings on a custom-basis and plans to launch a similar Cross-Platform Program Ratings service in the coming year. Arbitron partnered with comScore Inc. (“comScore”) to provide customized cross-platform audience measurement services to ESPN, widely known as “Project Blueprint” Although these services are currently custom projects and/or customer-sponsored beta tests, Nielsen and Arbitron are developing national syndicated offerings.

Nielsen and Arbitron are the best-positioned firms to develop (or partner with others to develop) a national syndicated cross-platform audience measurement service because of their existing audience measurement panels and proven audience measurement technology assets. Large, representative panels, like those used by Nielsen and Arbitron for their respective television and radio audience measurement businesses, are considered the most accurate and preferred sources of individual-level demographic data for audience measurement purposes. Only Nielsen and Arbitron maintain large, representative panels capable of measuring television with the required individual-level demographics. Other firms working to develop cross-platform audience measurement services are not as well positioned to compete with Nielsen and Arbitron to develop a national syndicated cross-platform audience measurement service because they lack

the representative panels, existing audience measurement technology assets of the quality and character of Nielsen's and Arbitron's, and strong brands in audience measurement.

The United States is the appropriate geographic market in which to analyze the competitive effects of the proposed transaction. Purchasers of U.S. cross-platform audience measurement services require these services to assist them in making decision about buying and selling advertising inventory aimed at U.S. consumers. National U.S. cross-platform audience measurement services provide U.S. customers with data on U.S. audiences and require a significant presence in the United States to gather such audience data.

Entry

Sufficient and timely entry or expansion into the market for national syndicated cross-platform audience measurement services is unlikely to deter or counteract the anticompetitive effects of the proposed acquisition. In order to offer national syndicated cross-platform audience measurements, a firm must have access to television audience data with individual-level demographic data. Establishing the infrastructure to recruit and maintain a representative panel of individuals needed to provide the television audience measurement component of a national syndicated cross-platform audience measurement service requires substantial upfront and ongoing investments. New entrants would also have to develop or license technology capable of collecting and generating the underlying data needed to provide a national syndicated cross-platform audience measurement service. Further, in order to attract customers, a new entrant must establish a strong reputation for quality and reliability in audience measurement. These significant barriers ensure that entry would not be timely, likely, or sufficient to counteract the anticompetitive effects of the proposed acquisition for several years at a minimum.

Effects of the Acquisition

The acquisition is likely to cause significant competitive harm in the market for national syndicated cross-platform audience measurement services. Nielsen and Arbitron are the best-positioned firms to develop (or partner with others to develop) national syndicated cross-platform audience measurement services. Both companies expect their respective cross-platform audience measurement services to become national syndicated offerings. The elimination of future competition between Nielsen and Arbitron would likely cause U.S. customers to pay higher prices for national syndicated cross-platform audience measurement services and result in less innovation for cross platform measurement services.

The Consent Agreement

The proposed Consent Agreement resolves the Acquisition's likely anticompetitive effects in the market for national syndicated cross-platform audience measurement services by requiring the divestiture of assets related to Arbitron's cross-platform audience measurement business, including data from its representative panel, to an Acquirer within three months of executing the consent agreement.

Pursuant to the proposed Consent Agreement, the Acquirer will receive the assets necessary to replicate Arbitron's participation in the development of a national syndicated cross-platform audience measurement service. Among other things, the Consent Agreement requires Nielsen to provide the Acquirer with a perpetual, royalty-free license to data, including individual-level demographic data, and technology related to Arbitron's cross-platform audience measurement business for a period of no less than eight years. Nielsen will also be required to make improvements and enhancements to the Arbitron panels at the request and expense of the Acquirer that will further the Acquirer's ability to offer a national syndicated cross-platform audience measurement service. With respect to Arbitron personnel involved in cross-platform services, the Consent Agreement removes impediments that might otherwise deter certain Key Arbitron Employees from accepting employment with the Acquirer. It also requires that Nielsen provide the Acquirer with certain technical assistance, at the request of the Acquirer to facilitate the Acquirer's ability to replicate Arbitron's position in the cross-platform audience measurement market. Collectively, these provisions are intended to enable the Acquirer to develop and provide a national syndicated cross-platform audience measurement service to its customers. The Consent Agreement is designed to ensure that the benefits of competition that would have been realized from Arbitron's provision of cross-platform audience measurement services, are not lost as a result of the acquisition.

The Commission has appointed a monitor to oversee Nielsen's compliance with all of its obligations and performance of its responsibilities pursuant to the Commission's Decision and Order (the "Order"). The monitor is required to file periodic reports with the Commission to ensure that the Commission remains informed about efforts to accomplish the divestiture and Nielsen's compliance with its ongoing obligations and responsibilities pursuant to the Order until the Order terminates.

Finally, the proposed Consent Agreement contains provisions that allow the Commission to appoint a divestiture trustee if any or all of the above remedies are not accomplished within the time frames required by the Consent Agreement. The divestiture trustee may be appointed to accomplish any and all of the remedies required by the proposed Consent Agreement that have not yet been fulfilled upon expiration of the time period allotted.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Decision and Order or to modify its terms in any way.