

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1372

To provide for the accuracy of television ratings services, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 1, 2005

Mr. BURNS (for himself, Ms. SNOWE, Mr. MARTINEZ, and Mr. ALLEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To provide for the accuracy of television ratings services,  
and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fairness, Accuracy,  
5       Inclusivity, and Responsiveness in Ratings Act of 2005”  
6       or the “FAIR Ratings Act”.

7       **SEC. 2. FINDINGS.**

8       The Congress finds the following:

9               (1) Communications via the medium of broad-  
10       cast television, including the transmission or car-

1 riage of those signals by multichannel video pro-  
2 gramming distributors (as defined in section  
3 602(13) of the Communications Act of 1934 (47  
4 U.S.C. 522(13)), play a critical role in and affecting  
5 interstate commerce.

6 (2) Television ratings inform television opera-  
7 tors and advertisers with respect to the size and de-  
8 mographic makeup of audiences for television pro-  
9 gramming.

10 (3) Television operators rely upon these ratings  
11 to fulfill their obligation to serve the public interest.

12 (4) Television viewers will receive the most rep-  
13 resentative variety of television programs if tele-  
14 vision ratings measurement services provide data  
15 that accurately reflects viewing by all demographic  
16 groups.

17 (5) Inaccurate ratings systems that undercount  
18 minority, young, family, and rural television popu-  
19 lations will adversely affect these populations if tele-  
20 vision operators broadcast fewer programs that are  
21 intended to serve them as a result of inaccurate rat-  
22 ings.

23 (6) The interests of the television-viewing public  
24 will be best served by an industry oversight system  
25 that guarantees accurate ratings of television shows.

1           (7) The Media Ratings Council was established  
2           at the behest of Congress in the 1960s to guarantee  
3           the accuracy of television ratings and to ensure such  
4           oversight.

5           (8) It is in the public interest to ensure that the  
6           Council have the necessary authority to fulfill its  
7           critical role.

8   **SEC. 3. ACCREDITATION OF RATINGS.**

9           (a) IN GENERAL.—

10           (1) ACCREDITATION REQUIRED.—No person  
11           may sell, offer to sell, or otherwise provide, in or af-  
12           fecting interstate commerce, data from a television  
13           ratings measurement system that produces, or is de-  
14           signed to produce, television ratings data to be used  
15           commercially as currency ratings unless that system  
16           is accredited by the Media Ratings Council.

17           (2) TRIAL PERIOD FOR NEW MEASUREMENT  
18           SYSTEMS.—The Council shall accredit any television  
19           ratings measurement system not in existence on the  
20           date of enactment of this Act that produces, or is  
21           designed to produce, data to be used commercially  
22           as currency ratings for an initial trial period on the  
23           basis of audits of the ratings system to be utilized.  
24           The Council shall establish a limited, reasonable,  
25           and uniform period of time for such trial periods.

1           (3) CHANGE IN METHODOLOGY.—If the oper-  
2           ator of a television ratings measurement system that  
3           is in existence on the date of enactment of this Act  
4           makes a change in that system that has not been  
5           approved for accreditation purposes by the Council,  
6           the operator may not offer data from the changed  
7           system as currency ratings until the Council has ac-  
8           credited the changed system utilizing any process of  
9           review it deems appropriate for evaluating such a  
10          change.

11          (b) STANDARDS FOR ACCREDITATION.—

12           (1) BASIC PRINCIPLES.—The Council shall base  
13           its standards of accreditation on the following basic  
14           principles:

15           (A) ACCURACY.—Any accredited television  
16           ratings measurement system shall accurately  
17           convey all the aspects of audience viewing be-  
18           havior that it is intended, or is represented, to  
19           convey, using accurate statistical methods and  
20           social sciences data, including disclosure of all  
21           limitations or possible sources of error.

22           (B) EQUAL REPRESENTATION.—The sta-  
23           tistical processes used to determine ratings data  
24           in an accredited television ratings measurement  
25           system shall include all age groups, demo-

1 graphic and sub-demographic groups, geo-  
2 graphic locations, and other indicators of the  
3 population of the United States as may be rel-  
4 evant, in as accurate, proportionate, and fully  
5 representative a manner as possible, based on  
6 the requirements of the intended scope of each  
7 television ratings measurement system.

8 (C) DISCLOSURE OF METHODOLOGY.—Any  
9 operator of a television ratings measurement  
10 system shall disclose to the Council the details  
11 of—

12 (i) how the system conducts its meas-  
13 urement of data; and

14 (ii) how the system interprets the  
15 data.

16 (2) STANDARDS.—The Council shall establish  
17 specific and detailed standards for accreditation  
18 based on these principles, and make them publicly  
19 available at all times.

20 (3) PERIODIC REVIEW.—The Council shall peri-  
21 odically conduct a review of the standards based on  
22 changing circumstances, technologies, methods, or  
23 market conditions, and update the standards as nec-  
24 essary.

1 **SEC. 4. DISPUTE RESOLUTION.**

2 (a) PROCEDURES FOR ACCREDITATION.— Any dis-  
3 pute between an operator of a television ratings measure-  
4 ment system and the Council shall be resolved according  
5 to the dispute resolution procedures of the Council, based  
6 upon the rules and procedures specified in the bylaws of  
7 the Council in force at the time of the dispute.

8 (b) MANDATORY PARTICIPATION.—An operator of a  
9 television ratings measurement service that—

10 (1) fails to receive accreditation from the Coun-  
11 cil, and

12 (2) offers or uses, or intends to offer or use, the  
13 data produced by that system commercially as cur-  
14 rency ratings,

15 shall participate in a dispute resolution procedure main-  
16 tained by the Council.

17 (c) DISCLOSURE OF AUDIT DATA.—If there is a dis-  
18 pute between the operator of a television ratings measure-  
19 ment system and the Council within its dispute resolution  
20 procedures, the Council may disclose audit and related  
21 data about the aspects of the system under dispute during  
22 the accreditation process to its members, other interested  
23 parties, or to the public.

24 (d) BINDING DECISION.—If the Council determines  
25 in a dispute resolution process that changes in a television  
26 ratings measurement system are necessary for that system

1 to be accredited by the Council, and if the operator offers  
2 or intends to offer data from that system commercially  
3 as currency ratings, then the operator of the system shall  
4 make the changes specified by the Council.

5 (e) DISCRETION OVER PROCESS.—The Council shall  
6 have sole discretion over the length, scope, timing, and  
7 process of resolving disputes concerning accreditation of  
8 television measurement ratings systems.

9 (f) ENFORCEMENT ACTION.—The Council, or any of  
10 its members, may seek judicial enforcement of this Act,  
11 or of any final accreditation determination of the Council,  
12 in any court of competent jurisdiction.

13 **SEC. 5. MEDIA RATINGS COUNCIL DECISIONS.**

14 For the purposes of this Act, no action taken or deci-  
15 sion made by the Council shall be taken into account un-  
16 less it was fully reviewed and agreed to by the Board of  
17 the Council following deliberation, voting, and rec-  
18 ommendations according to the rules and procedures of  
19 the Council.

20 **SEC. 6. ANNUAL REPORT.**

21 (a) IN GENERAL.—The Council shall transmit an an-  
22 nual report on its activities no later than March 1 of each  
23 year to the Federal Trade Commission, the Federal Com-  
24 munications Commission, the Committee on Energy and  
25 Commerce of the House of Representatives, and the Com-

1 mittee on Commerce, Science, and Transportation of the  
2 United States Senate.

3 (b) REQUIRED CONTENT.—The report shall con-  
4 tain—

5 (1) a summary of disputes about the accuracy  
6 of television ratings measurement systems that took  
7 place over the previous 12 months;

8 (2) a summary of issues driving change in the  
9 market for data provided by television ratings meas-  
10 urement systems, including technology, market  
11 forces, and customer demand; and

12 (3) any other relevant information.

13 **SEC. 7. DEFINITIONS.**

14 In this Act:

15 (1) ACCREDITATION.—The term “accredita-  
16 tion” means determination that a television ratings  
17 measurement system meets the Minimum Standards  
18 for Media Rating Research as set forth by the Coun-  
19 cil, based on a rigorous and transparent audit and  
20 consultation process with the operator of the tele-  
21 vision ratings measurement system.

22 (2) MEDIA RATING COUNCIL; COUNCIL.—The  
23 terms “Media Rating Council” and “Council” mean  
24 the organization formed by the television industry in  
25 1964 to represent the interests of advertisers and



1 television operators in accurate ratings of television  
2 programming, or any other ratings accreditation  
3 agency that may be established in the future by a  
4 significant majority of television operators, television  
5 programmers and advertising agencies, exclusive of  
6 operators of television ratings measurement systems,  
7 to perform a comparable set of functions at a com-  
8 parable level of quality.

9 (3) TELEVISION RATINGS MEASUREMENT SYS-  
10 TEM.— The term “television ratings measurement  
11 system” means any system designed to measure the  
12 viewing habits of television viewers and to produce  
13 commercially usable data based on such measure-  
14 ments.

15 (4) CURRENCY RATINGS.—The term “currency  
16 ratings” means data produced by television ratings  
17 measurement systems that are widely used by a sig-  
18 nificant portion (as determined by the Council) of  
19 television operators and advertisers to determine the  
20 commercial value of advertising on television.

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