

CONCILIATION AGREEMENT

Between

THE U. S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

and

THE NIELSEN COMPANY

PART I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs (or "OFCCP") evaluated the Nielsen Company's ("Nielsen") facility located at 501 Brooker Creek Boulevard, Oldsmar, Florida 34677, and found that the Nielsen was not in compliance with Executive Order 11246, as amended ("E.O. 11246" or "the Executive Order"), Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. § 793 ("Section 503"), as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. § 4212 ("VEVRAA"), as amended, and their implementing regulations at 41 Code of Federal Regulation ("C.F.R.") Chapter 60. OFCCP notified Nielsen of the specific violations found and the corrective actions required in a Notice of Violation issued on October 27, 2016, and issued a Notice to Show Cause for failure to conciliate on June 19, 2017. In the interest of resolving the violations without engaging in further legal proceedings and in exchange for the good and valuable consideration described in this document, OFCCP and Nielsen enter this contract ("Conciliation Agreement" or "Agreement") and agree to all the terms stated below.

PART II. GENERAL TERMS AND CONDITIONS

1. In exchange for Nielsen's fulfillment of all obligations in Parts III and IV of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246 based on the violations described in more detail in Part III below. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part III if Nielsen violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. Nielsen agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Nielsen will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

3. Nielsen understands that nothing in this Agreement relieves Nielsen of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws.
4. Nielsen promises not to harass, intimidate, threaten, discriminate, or otherwise retaliate against any individual because the individual benefits from this Agreement, files a complaint or participates in any investigation or proceeding under E.O. 11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 C.F.R. § 60-1.32(a).
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced herein. This Agreement contains all terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing, signed by all parties.
7. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
8. This Agreement becomes effective on the day it is signed by the Regional Director of the Southeast Region (the "Effective Date"). This Agreement will expire 60 calendar days after Nielsen submits the progress report required in Part IV (D), below, unless OFCCP notifies Nielsen in writing prior to the expiration date that Nielsen has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines Nielsen has met all of its obligations under the Agreement.
9. If OFCCP believes that Nielsen violated any term of the Agreement while it was in effect, OFCCP will send Nielsen a written notice stating the alleged violations and summarizing any supporting evidence.

Nielsen will have fifteen (15) calendar days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

If Nielsen is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.

Nielsen may be subject to the sanctions set forth in Section 209 of the Executive Order, and/or other appropriate relief for violation of this Agreement.

10. This Agreement does not constitute an admission by Nielsen of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that Nielsen violated any laws.
11. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
12. The parties understand and agree that nothing in this Agreement is binding on any governmental departments or agencies other than the United States Department of Labor.
13. Each party shall bear its own fees and expenses with respect to this matter.
14. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with the creation of this settlement, will constitute evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this Agreement.
15. All references to "days" in this Agreement are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

PART III. ALLEGED VIOLATIONS AND REMEDIES

1. **VIOLATION:** OFCCP alleges that at least as of January 1, 2014 Nielsen discriminated against Hispanics employed in Administrative job functions, by paying them less than similarly-situated blacks in violation of 41 C.F.R. § 60-1.4(a)(1). OFCCP performed a regression analysis, based on information gathered during a compliance review, and found statistically-significant pay disparities.

REMEDY:

- a. **Remedy any Pay Disparities.** Pursuant to 41 C.F.R. § 60-2.17(b), Nielsen agrees to conduct an analysis of its compensation policies and practices to ensure they comply with 41 C.F.R. § 60-1.4(a)(1). Specifically, Nielsen will review the compensation of all employees in the Administrative job function at the Oldsmar facility to ensure it does not engage in compensation discrimination, as outlined in 41 C.F.R. § 60-1.4(a)(1). The compensation review will include all forms of monetary compensation in the form of salary or pay rates, bonuses, commissions, pay additions or other forms of incentive pay. Nielsen will also review its processes for training selection, advancement opportunities and employee placement into jobs and access to earnings

opportunities, such as assignment to preferred contracts or territories. If Nielsen finds pay disparities that cannot be justified by a legitimate business factor, Nielsen will eliminate the disparity by providing pay adjustments to the affected individuals currently employed at Nielsen.¹ Nielsen will continue to conduct pay equity analyses on at least an annual basis to determine if there are any race- or gender- based disparities.

- b. **Revised Policies and Procedures.** Nielsen will review and, as necessary, revise its compensation practices and establish monitoring and oversight mechanisms to ensure that all aspects of its compensation system provide an equal opportunity to all of its employees as required by 41 C.F.R. § 60-1.4(a). All revised pay practices will ensure nondiscrimination in rates of pay or other forms of compensation.
- c. **Training.** Nielsen will provide training to all of its managers and supervisors who make compensation decisions for Oldsmar administrative employees, as well as to all human resources personnel for Oldsmar administrative employees. This training will include subjects regarding equal employment opportunity rights and responsibilities, and training on any new policies and practices in effect pursuant to the terms described in Part III of this Agreement. Nielsen's training will include a formal assessment of trainee comprehension. The assessment will ensure that managers who have completed the training understand and can implement the requirements to (1) follow compensation practices that do not discriminate against employees, as outlined in 41 C.F.R. 60-1.4(a)", (2) consistently and fairly implement Nielsen's new or revised written practices, and (3) properly document the results of their compensation decisions and retain appropriate records.
- d. **Recordkeeping.** Pursuant to 41 C.F.R. § 60-1.12, Nielsen will ensure its managers properly maintain all records on Nielsen's revised policies and procedures, including any associated underlying data and information such as human resources information system and payroll data, job applications, applicant and hire data, disposition codes, personnel records, and any other records or data used to generate the required reports. Nielsen also will provide OFCCP with the data requested in Part IV below.

2. **VIOLATION:** Nielsen failed to develop and implement written Affirmative Action Programs ("AAPs") and supporting data, pursuant to Executive Order 11246, Section 503, and VEVRAA, as required by 41 C.F.R. §§ 60-1.12 (b), 60-741.40(b) and 60-300.40(b). On April 1, 2014, OFCCP issued a Notice to Show Cause for Nielsen's failure to submit these AAPs.

CORRECTIVE ACTION: On May 6, 2014, Nielsen developed and began implementing written AAPs pursuant to Executive Order 11246, Section 503 and VEVRAA. Nielsen must preserve its Executive Order 11246 AAP, as required at 41 C.F.R. § 60-1.12 (b). Nielsen must annually update and implement the contents of its AAPs, as required at 41

¹ After OFCCP's evaluation described in Part I, Nielsen reorganized and conducted layoffs at its Oldsmar facility. Accordingly, any pay adjustments will apply to employees employed at the time of the pay equity analysis described in Part III.

C.F.R. §§ 60-2.10-17, 60-741.40-44 and 60-300.40-45. Nielsen must submit, within 30 days of any future compliance evaluation by OFCCP, its updated AAP(s) and support data, unless a request for information from OFCCP provides for a different deadline.

PART IV: REPORTS REQUIRED

1. Nielsen agrees to furnish the Office of Federal Contract Compliance Programs with the reports detailed below. The report shall be due 120 calendar days after the Effective Date of this Agreement, should be sent via email to District Director Miguel Rivera at (7)(C)@dol.gov, and shall include:

- Documentation of its pay analysis, as described in Part III;
- Documentation of training, as described in Part III;
- Electronic copies of the underlying data used to conduct the pay analysis described in Part III, including items such as structural differences (e.g., division, business unit, product line, location) and individual employee characteristics (e.g., company tenure, grade level);
- Documentation of any pay adjustments made as a result of the pay analysis, as described in Part III -- to include the amount of each adjustment, the date each adjustment was made, and the race/ethnicity of each individual receiving an adjustment;
- Copies of any revised pay policies, as described in Part III; and
- Documentation that Nielsen has implemented the contents of its Oldsmar AAPs, as required at 41 C.F.R. §§ 60-2.10-17, 60-741.40-44, and 60-300.40-45.

2. Nielsen will retain all records and data pertinent to the violations resolved by this Agreement and/or used to prepare required reports until this Agreement expires or as long as required by OFCCP's regulations, whichever date occurs later.

TERMINATION DATE: This Agreement will expire 90 days after OFCCP receives the report required in Part IV above or on the date that the District Director gives notice to Nielsen that it has satisfied its reporting requirement, whichever occurs earlier, unless OFCCP notifies Nielsen in writing prior to the end of the 90-day period that Nielsen has not satisfied its reporting requirement pursuant to this Agreement

INTEGRATION CLAUSE: This Agreement represents the full Agreement between Nielsen and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither Nielsen nor OFCCP relies upon any promise, representation of fact or law, or other inducement that is not expressed in this Agreement. This Agreement may be modified only by written agreement of the Parties affected and may not be modified by any oral agreement.

Part V. SIGNATURES

This Conciliation Agreement is hereby executed by and between the OFCCP and the Nielsen Company. The person signing this Conciliation Agreement on behalf of the Nielsen Company is authorized to do so. The Nielsen Company has entered into this Conciliation Agreement voluntarily and with full knowledge of the effect thereof, and that execution of this Conciliation Agreement is fully binding on the Nielsen Company and OFCCP.

(6), (7)(C)

Nancy Phillips
Chief Human Resources Officer
The Nielsen Company

Date: 1/10/2019

(6), (7)(C)

Samuel Maiden
Regional Director - Southeast
Office of Federal Contract Compliance
Programs

Date: 1/14/2019

(6), (7)(C)

for Dawn Hayn
Assistant District Director - Orlando
Office of Federal Contract Compliance
Programs

Date: 01/11/19

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Miguel Rivera
District Director
Office of Federal Contract Compliance
Programs

Date: 01/11/19