

ARBITRON INC
Form 8-K
October 06, 2008

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

October 6, 2008

Arbitron Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

1-1969

(Commission
File Number)

52-0278528

(I.R.S. Employer
Identification No.)

142 West 57th Street, New York, New York

10019-3300

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

212-887-1300

Not Applicable

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 7.01 Regulation FD Disclosure.

Commercialization of Portable People Meter™ Radio Ratings Service in Eight Local Markets

On October 6, 2008, Arbitron Inc. (the "Company") announced that it has commercialized its Portable People Meter radio ratings services in eight new markets.

The Company has released radio audience estimates for the September 2008 PPMTM survey month (August 21-September 17) to its subscribers in New York, Los Angeles, Chicago, San Francisco, Nassau-Suffolk, Middlesex-Somerset-Union, Riverside-San Bernardino, and San Jose.

Effective October 6, 2008, the PPM radio audience estimates for these markets should be used as the basis for buy/sell transactions of radio commercial time among subscribing stations, agencies and advertisers. In addition, the July and August PPM survey months, which Arbitron had previously released as "pre-currency" information, are now designated as "currency" data. The Spring 2008 diary-based radio audience report (April 3-June 25) is no longer deemed "currency" for buy/sell transactions.

Commencement of Civil Action Seeking Declaratory Judgment and Injunctive Relief Against the Attorney General for the State of New York

On October 6, 2008, the Company also announced that it has commenced a lawsuit in the United States District Court for the Southern District of New York, seeking a declaratory judgment and injunctive relief against the Attorney General for the State of New York to prevent any attempt to restrain the Company's publication of its PPM listening estimates.

The Company stated that any restraint on the publication of its PPM listening estimates would have an adverse impact on the radio broadcast industry and advertising industries as a whole, would cause the Company's business to suffer severe irreparable harm, would cause economic injury to the Company's shareholders and violates the Company's First Amendment rights to publish its radio audience listening estimates.

Among other things, the Company is seeking the following relief:

- a judgment declaring that the publication of its PPM listening estimates is fully protected by the U.S. and New York Constitutions; and
- a preliminary and permanent injunction along with a temporary restraining order enjoining the New York Attorney General from attempting to restrain or prevent Arbitron from publishing its PPM listening estimates.

On October 6, 2008, the Company issued a press release regarding the commercialization of the PPM service in eight local markets. A copy of that press release is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference. On October 6, 2008, the Company also issued a press release regarding the commencement of its civil action in the United States District Court for the Southern District of New York. A copy of that press release is attached as Exhibit 99.2 to this Current Report on Form 8-K and incorporated herein by reference.

The information in this Item 7.01 (including Exhibits 99.1 and 99.2) shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 (the "Exchange Act") or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933 or the Exchange Act, except as expressly set forth by specific reference in such a filing.

Item 9.01 Financial Statements and Exhibits.

The following exhibits relating to Item 7.01 shall be deemed to be furnished, and not filed:

99.1 Press Release of Arbitron Inc. regarding commercialization of the PPM radio ratings service in eight local markets dated October 6, 2008

99.2 Press Release of Arbitron Inc. regarding the commencement of its civil action in the United States District Court for the Southern District of New York dated October 6, 2008

Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The statements regarding Arbitron Inc. and its subsidiaries in this document that are not historical in nature, particularly those that utilize terminology such as “may,” “will,” “should,” “likely,” “expects,” “anticipates,” “estimates,” “believes,” or “plans,” or comparable terminology, are forward-looking statements based on current expectations about future events, which we have derived from information currently available to us. These forward-looking statements involve known and unknown risks and uncertainties that may cause our results to be materially different from results implied in such forward-looking statements. These risks and uncertainties include, in no particular order, whether we will be able to:

- successfully implement the commercialization of our Portable People Meter™ service;
- successfully maintain industry usage of our services in light of governmental regulation, legislation, litigation, activism or adverse public relations efforts prompted by various industry groups and market segments;
- successfully design, recruit and maintain PPM panels that appropriately balance research quality, panel size and operational cost;
- complete the Media Rating Council (“MRC”) audits of our local market PPM ratings services in a timely manner and successfully obtain and/or maintain MRC accreditation for our audience measurement business;
- renew contracts with large customers as they expire;
- successfully execute our business strategies, including entering into potential acquisition, joint-venture or other material third-party agreements;
- effectively manage the impact, if any, of any further ownership shifts in the radio and advertising agency industries;
- respond to rapidly changing technological needs of our customer base, including creating new proprietary software systems and new customer products and services that meet these needs in a timely manner;
- successfully manage the impact on our business of any economic downturn, generally, and in the advertising market, in particular;
- successfully manage the impact on costs of data collection due to lower respondent cooperation in surveys, privacy concerns, consumer trends, technology changes and/or government regulations; and
- successfully develop and implement technology solutions to measure new forms of audio content and delivery, multimedia and advertising in an increasingly competitive environment.

There are a number of additional important factors that could cause actual events or our actual results to differ materially from those indicated by such forward-looking statements, including, without limitation, the risk factors set forth in the caption “ITEM 1A. — RISK FACTORS” in our Annual Report on Form 10-K for the year ended December 31, 2007, and elsewhere, and any subsequent periodic or current reports filed by us with the Securities and Exchange Commission.

In addition, any forward-looking statements contained in this document represent our estimates only as of the date hereof, and should not be relied upon as representing our estimates as of any subsequent date. While we may elect to update forward-looking statements at some point in the future, we specifically disclaim any obligation to do so, even if our estimates change.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Arbitron Inc.

October 6, 2008

By: */s/ Timothy T. Smith*

Name: Timothy T. Smith

*Title: Executive Vice President, Legal and Business Affairs,
Chief Legal Officer and Secretary*

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Exhibit Index

Exhibit No.	Description
99.1	Press Release of Arbitron Inc. regarding commercialization of the PPM radio ratings service in eight local markets dated October 6, 2008
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