

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

## BYLAWS

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### Article 1 - Objects

The objects of the Audit Bureau of Circulations (alternatively, the "Bureau" and "ABC") shall be to issue standardized statements of circulation data or other data reported by a member; to verify the figures shown in these statements by auditors' examination of any and all records considered by the Bureau as necessary; and to disseminate data for the benefit of advertiser members, advertising agency members and other members interested in facts on the advertising and publishing industry.

Each member's Statement and each Audit Report issued by the Bureau shall embrace figures and facts bearing on the quality as well as the quantity of circulation data or other data reported. The figures in the Audit Report shall be those verified by Bureau auditors. Facts, without opinion, to be reported.

### Article 2 - Membership Qualifications and Obligations

#### 2.1 Classes and Obligations of Membership

(a) There shall be seven classes of membership as follows:

- Advertisers.
- Advertising Agencies.
- Associates.
- Business Publication Publishers.
- Farm Publication Publishers.
- Magazine Publishers.
- Newspaper Publishers.

(b) Members shall abide by all of the published bylaws, rules, policies and practices of the Bureau. Associate members do not have voting rights.

#### 2.2 Eligibility for Membership

(a) Advertisers: Any individual or entity that advertises shall be eligible for membership.

(b) Advertising Agencies: Any individual or entity that conducts an advertising agency or media buying service, shall be eligible for membership.

(c) Associates: A parent company of an ABC publisher member or any individual or entity that requires circulation information or other ABC data or services from ABC's subsidiaries may apply for associate membership.

(d) Publisher Classes: Any individual or entity that publishes a publication eligible for membership in one of the publisher classes under subparagraphs (1) through (4) of this subsection shall be eligible for membership. Except in the case of publications admitted to associate membership by the Board of Directors, a publication otherwise eligible to membership shall not be admitted to membership except as a publisher member, and a publication ineligible for a membership as a publisher shall not be eligible to membership in any other class. All reference to a publisher member or membership for a publication in these bylaws shall mean the legal entity holding membership. Except as otherwise provided in these bylaws, a separate membership shall be taken out by a publisher member for each publication.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

(1) Business Publication Publishers - Any individual or entity that publishes a business publication shall be eligible for membership.

To qualify for regular membership:

(a) Publications reporting on the Paid Circulation Form shall have 70 percent or more of the total circulation qualify as paid circulation.

(b) Publications reporting on the Paid and Qualified Non-Paid Circulation Form shall not be required to have a minimum amount of paid and/or non-paid direct request circulation. The provisions of [Bylaw 2.13 Provisional Membership](#) do not apply to publications reporting on this form.

(2) Farm Publication Publishers — Any individual or entity that publishes a farm publication shall be eligible for membership. The provisions of [Bylaw 2.13 Provisional Membership](#) do not apply.

(3) Magazine Publishers — Any individual or entity that publishes a magazine shall be eligible for membership. The Bureau shall determine the manner and form in which magazine publishers shall report and analyze their circulation. The provisions of [Bylaw 2.13 Provisional Membership](#) do not apply.

(4) Newspaper Publishers — Any individual or entity that publishes a newspaper with paid circulation as defined by these bylaws shall be eligible for membership.

A newspaper that meets the requirements of [Bylaw 2.13](#) may be a provisional member.

(e) Transfer of membership: Membership shall be nontransferable.

(f) Revision of membership eligibility requirements:

(1) Membership eligibility requirements may be determined only by the Board of Directors.

(2) Prior to any revision of the membership eligibility requirements of a publisher division, the Board of Directors shall submit the proposed revision in writing to the members of the division affected for an advisory vote by mail ballot or at an annual divisional meeting.

(3) If an advisory vote by mail ballot does not favor the proposed revision, the proposed revision will be scheduled for discussion at the next annual meeting of the division affected.

## 2.3 Forced Combinations

A newspaper, selling national advertising or subscriptions in forced combination with another newspaper or newspapers in the same city of publication or city zone, shall not be admitted to or continued in membership in the Bureau unless a membership is taken out and maintained for each of said newspapers regardless of frequency of publication.

## 2.4 Periodicals Selling Advertising as a Unit

When all advertising in two or more periodicals owned by the same person or entity is sold as a unit, such periodicals may be admitted under one membership. When all advertising in two or more periodicals owned by different persons or entities is sold as a unit separate memberships will be required. In the case of separate memberships, each of said members shall be jointly and severally liable to discharge the combined obligations incident to the membership of each of them in the Bureau. In both cases a combined Publisher's Statement and a combined Audit Report shall be issued and the dues shall be computed upon the combined distribution.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

## 2.5 Member Representative, Proxy Execution

(a) Any individual or entity admitted to membership in the Bureau shall, at the time of admission, designate in writing and file with the Bureau on forms to be furnished by the Bureau the name of a member representative, who shall, at the time of appointment and so long as being the member representative, is employed by, and actively engaged in the operation of the member. The member representative shall be authorized and empowered to act in all dealings with the Bureau as well as to vote membership at all annual or special meetings of the Bureau. A member may change the member representative at any time by filing with the Bureau a certificate canceling the authority of such member representative, and designating some other person to act as member representative.

(b) Nothing contained in this bylaw shall be considered to limit the right of a member to execute a proxy to any person other than the member representative to vote at any meeting of the Bureau, but in the absence of such proxy such member representative shall be deemed to have full voting rights.

## 2.6 Application for Membership-All

Application for membership shall be made on forms provided by the Bureau and all applicants shall therein agree to abide by the published bylaws, rules, policies and practices of the Bureau and all amendments and additions that may in due form be made thereto. An affirmative vote of at least a majority of all members of the Board of Directors then present or the unanimous vote of the members of its designated committee then present shall be required to elect an applicant to membership. This vote may be taken by mail ballot or at any regular or special meeting of the Board of Directors.

## 2.7 Application for Publisher Membership

(a) Each applicant for publisher membership shall, with the application, deposit with the Bureau a sum of money equivalent to the estimated cost of the initial audit. The estimated cost shall be determined by the managing director. Within a reasonable time, the managing director shall present the application to the board for election and shall cause a preliminary examination of the books and records of the applicant to be made. After election, the release of an initial audit shall constitute qualification and acceptance of membership of the applicant. A publication applicant, upon acknowledgment by ABC of the receipt of both the application and the initial audit deposit, may publicize the fact of application only. If, within one year from date of application an initial audit has not been completed and released, the managing director may cancel the application, and communicate the cancellation to ABC's membership.

(b) The cost of preliminary examinations shall be included in the cost of the initial audit.

(c) If books and records are inadequate at time of the preliminary examination, the applicant shall agree to immediately install and maintain records adequate in accordance with the Bureau's requirements. If the applicant refuses to make such agreement or the agreement has not been carried out at the time of the next attempt at audit, the application shall be rejected and deposit made with the application shall be forfeited.

## 2.8 Publisher Duty to Install and Maintain Records

*(Also see [Rule C 5.19/Rule C 105.19 Hawker \(Street\) Sales.](#))*

It shall be the duty of each publisher member to install, maintain and make available to the Bureau auditors at all times, true and correct records of circulation and other data, capable of being audited in accordance with the established auditing practices of the Bureau.

Publisher members may sell copies in quantities through agents, distributors and wholesalers, independent contractors or other third-parties, however, the publisher shall remain responsible for the accuracy, completeness and accessibility of the records maintained by such organizations as though the records were maintained by the publisher.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

Circulation data reported in Publisher's Statements that cannot be substantiated because of the absence or unavailability of adequate records shall be subject to deduction in the Audit Report.

## 2.9 Transfer Between Divisions

(a) Any member publication seeking transfer to another publisher division shall submit a written request for transfer to the managing director.

The request shall include special reasons for the transfer, such as (but not limited to): change of format; change of nature of type of publication; change in editorial or advertising policy.

(b) The request shall be presented to the Board of Directors for approval, accompanied by a recommendation of the managing director for such terms and conditions as may be deemed desirable.

## 2.10 Notice of Changes

Where a change occurs in a publication for which a publisher holds a membership, such as (but without limitation to the following): change of name; change of format; change of the nature or type of publication, and similar changes which result from merger with another publication, acquisition of one or more other publications, being acquired by one or more other publications; or otherwise, the managing director shall be notified thereof in writing by the publisher member. If, after investigation, the managing director determines that the changes are not substantial, it shall be so reported, and Publisher's Statements and Audit Reports of the publication shall continue without interruption or change in the membership. If the managing director determines that the change or changes are substantial, he shall so report to the publisher of the publication involved. Thereupon the procedure for application for membership in [Bylaws 2.6](#) and [2.7](#) shall be followed. No Publisher's Statements or Audit Reports shall be released; no claim of membership shall be made by the publication, until the release of the initial audit.

## 2.11 Paid Circulation Defined

### Future Bylaw Change Alert:

As of **October 1, 2010**, Bylaw 2.11 Paid Circulation Defined will contain [updated rule language](#).

A publication with paid circulation is hereby defined to be one of which 70 percent or more of the total distribution during a regular six-month Publisher's Statement period (ended March 31 or September 30 for all newspapers and June 30 or December 31 for all magazines and farm publications published outside of Canada) (ended March 31, June 30, September 30 or December 31 for farm publications published in Canada and all business publications) qualifies as paid circulation under the standards of the Bureau. For newspapers, third party sales are to be excluded from paid circulation for membership eligibility purposes but should be included in the calculation as an element of total distribution. For business publications also see [Bylaw 2.2\(d\)\(1\)\(b\)](#).

## 2.12 Calculating Percentage of Paid Circulation

For purposes of calculating the percentage of paid circulation, checking copies to advertisers and advertising agencies, plus an average of not to exceed 500 copies per issue for promotion copies to advertisers, prospective advertisers and advertising agencies, shall not be included in the total distribution.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

## 2.13 Provisional Membership (Newspapers Only)

No newspaper shall be admitted to or retained in publisher membership in the Bureau unless it has and maintains paid circulation in accordance with the bylaws and rules of the Bureau except as follows:

(a) Any applicant for newspaper membership whose paid circulation is at least 50 percent but less than 70 percent of the total distribution as defined in [Bylaw 2.11](#) may be admitted to provisional membership on the affirmative vote of the Board of Directors. During the period of provisional membership the Publisher's Statements and Audit Reports shall indicate the provisional membership. Such provisional membership shall have all the privileges and obligations of a regular member. Such provisional member must agree, as a condition of admission to provisional membership, that the publication will qualify for regular membership under the definition in [Bylaw 2.11](#) not later than the period covered by the sixth regular six-months' Publisher's Statement filed by the publication following the date of admission to provisional membership, or that in the event the publication does not qualify for regular membership under the definition in [Bylaw 2.11](#) as provided above, the provisional membership in the Audit Bureau of Circulations will thereupon terminate without further action.

(b) Any newspaper that has maintained a paid circulation of 70 percent as defined in [Bylaw 2.11](#) for at least one complete audit period and subsequently drops below 70 percent paid circulation in either a Publisher's Statement or an Audit Report but has at least 50 percent paid circulation, shall immediately upon notification in writing by the managing director, without the requirement of any action by the Board of Directors, cease to be a member and shall become a provisional member as defined in subparagraph (a) of this section. Such provisional member may qualify for regular membership by maintaining 70 percent of its total distribution as paid circulation for a period of not less than three months, but must qualify not later than the sixth regular six-months' Publisher's Statement. If the publication does not so qualify or if the publication drops below 50 percent paid circulation in either a Publisher's Statement or an Audit Report, membership in the Audit Bureau of Circulations, provisional or otherwise, shall thereupon terminate, without further action.

(c) Any of the foregoing provisions of this section to the contrary notwithstanding if a former newspaper member of the Audit Bureau of Circulations reapplies for membership as a publisher member within a three year period after termination of the former membership, such former member shall be required to have a paid circulation as defined in [Bylaw 2.11](#) before being readmitted to membership.

(d) The membership of a publisher member qualifying as an association publication under the rules and standards; or a publisher member which fulfills subscriptions to members of an association, organization or society under the rules and standards, shall be automatically terminated without further action, if full compliance with the applicable rules and standards is not effected on the date of commencement of the second membership year following the period covered by the initial audit.

## 2.14 Publisher's Statements-Filing and Certification

Publisher members shall file with the Bureau for prompt release by the Bureau true statements of circulation in accordance with the ABC bylaws and rules for semi-annual or such other periods as may be determined by the Bureau.

These statements must be signed by and certified by the senior circulation executive and by the publisher or an individual in executive management (e.g., President, CEO, etc.) as follows, "We certify that to the best of our knowledge all data set forth in this Publisher's Statement are true and report circulation in accordance with Audit Bureau of Circulations Bylaws and Rules." These Publisher's Statements shall be audited by the Bureau in accordance with its rules.

## 2.15 Access to Records

For the purpose of accomplishing the objects of the Bureau, the Bureau and its subsidiaries shall have the right of access to all books and records of publisher members deemed necessary by the Bureau. This right of access may be exercised at any time not only for the purpose of making an audit but also for the purpose of verifying a detail or details of a Publisher's Statement submitted to the Bureau, whether that Publisher's Statement has been released or not; or for the purpose of investigating the accuracy of an Audit Report already released; or for obtaining information which, in the opinion of the managing director, may be pertinent to a future Publisher's Statement or Audit Report.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

Publisher members shall also be responsible for maintaining the Bureau's right of access to records required for the purposes listed above that are maintained by other organizations used by the member to sell and distribute their publications.

All such information so obtained, together with transcripts of any such books and records, work sheets, memoranda, communications to the Bureau and its subsidiaries, and other information in the possession of the Bureau and its subsidiaries pertaining to an Audit Report or Publisher's Statement, shall be confidential and used solely for the above purposes, and shall not be available or used for any other purpose except by authority of the Board of Directors.

## 2.16 Suspension of Publisher's Statement and Audit Report Service

(a) No Publisher's Statement shall be released nor shall an audit be made when it has been determined by the auditors of the Bureau that the necessary books and records of a publisher member are not accessible to the auditors or are so incomplete or inaccurate that an audit cannot be made in accordance with the established auditing practices of the Bureau.

(b) If, owing to the absence, incompleteness or inaccuracy of publisher's records, an audit cannot be made, or a Publisher's Statement filed, service on the publication shall be suspended and the publisher shall be required to sign an agreement substantially as follows:

Owing to the condition of the circulation records of ..... making an audit (or filing of a Publisher's Statement) for the ..... months ended ..... impossible, we, the undersigned, agree to install and maintain records according to ABC requirement.

We further agree to continue the payment of our dues during the period of suspension of service. It is our understanding that the Bureau will make an audit (provided proper records have been maintained for a period of at least ..... months ended with a calendar quarter) in accordance with an auditor's regular itinerary for the area.

It is understood that, because an audit cannot be made at this time (or records are not available to permit the filing of a Publisher's Statement), all report service will be suspended until the Reinstatement Audit has been made and released. (Signed).....Publisher

Should publisher refuse to sign this agreement, the publication shall be subject to such penalty as may be determined by the Board of Directors.

(c) When service on a publication is suspended under the provisions of Paragraph (b) of this section, audit shall be attempted at the earliest date practicable under the terms of the agreement made by the publisher. If, at that time, audit is again impossible, the situation shall be reported to the Board of Directors for such action as the board may deem proper.

## 2.17 Membership Certificates

The Bureau shall issue a membership certificate to each member. The certificate shall show the date of admission to membership and in case of loss or destruction of such certificate a new certificate may be issued.

## 2.18 Waiver of Damages and Indemnification

(a) Purpose and Scope. To maintain the economic well-being of the Bureau for the benefit of the membership as a whole, the following provisions shall constitute a condition of membership, shall bind each member (and successor) and shall be for the direct protection of the Bureau (including its directors, officers, employees and agents).

(b) Limited Damage Waiver. Each member waives any right to assert claims for money damages against the Bureau or its subsidiaries for any action, negligence or breach relating to its performance or nonperformance of its activities or services, except that this waiver shall not apply to

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

damages that are determined by final adjudication to have arisen from intentional misconduct on the part of the Bureau or its subsidiaries in verifying and disseminating erroneous circulation data or other data. In no event, without limiting the foregoing waiver, shall the Bureau or its subsidiaries be liable for damages which are punitive or multiplied. This provision shall be without prejudice to members seeking damages against other individual members or third parties, but members are expected to act with diligence to assert any grievances promptly so as to avoid incurring any substantial losses.

**(c) Member Suits.** Members may assert claims or actions for nonmonetary relief against the Bureau or its subsidiaries, but each member shall exercise the rights and remedies provided in the bylaws and rules. A member shall not make or bring any claim, suit, or proceeding against the Bureau or its subsidiaries until after the member has exhausted all rights and remedies provided under the bylaws and rules. Any member who brings an action against the Bureau or its subsidiaries or whose actions cause action to be taken against the Bureau or its subsidiaries shall fully reimburse the Bureau and its subsidiaries for all costs and expenses (including reasonable attorneys' fees) that the Bureau or its subsidiaries incurs, unless the member's action is successful in establishing a right to the relief sought.

**(d) Indemnification.** A member shall fully reimburse and indemnify the Bureau and its subsidiaries for all costs and expenses the Bureau and its subsidiaries incurs, including, without limitation, reasonable attorneys' fees and all sums paid by way of settlement, judgment, or other disposition, if the Bureau or its subsidiaries are named as a defendant, are required to respond to discovery, or are otherwise required to participate in litigation, disputes, investigations, regulatory actions, regulatory compliance, or any other proceedings relating to such member.

**(e) Enforcement.** Any costs and expenses (including reasonable attorneys' fees) incurred by the Bureau or its subsidiaries to successfully enforce these provisions against any member shall be reimbursed by the member of the Bureau.

**(f) Existing legal rights.** The provisions of this bylaw shall supplement whatever rights and protections, including common law rights to contribution or indemnification, that the Bureau and its subsidiaries may otherwise have by separate agreement or operation of law, but in no event shall the Bureau and its subsidiaries be entitled to more than a full recovery in any claim for reimbursement for a loss, cost or expense.

### Article 3 - Dues and Service

#### 3.1 Dues Obligation

Members of each class shall pay dues computed on an annual basis as well as the cost of the services each member receives on the basis hereinafter specified in this Article.

#### 3.2 Dues by Classification

**(a)** Dues for each class of members shall be set by the Board of Directors, subject to the following provisions:

**(1) Advertisers**

Separate annual dues may be set for National and Regional Advertiser members.

**(2) Advertising Agencies**

Annual dues for Advertising Agency members, including media buying services, shall be based either on the total print media billings during the preceding calendar year, or an estimate of total print media billings in the year to which dues billings apply, at the option of the member.

**(3) Publishers**

Annual dues for publishers shall be payable quarterly in advance, with the exception of dues of newspapers audited every other year, in which case the dues shall be payable semi-annually in advance, based on total distribution as shown in the latest released

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

regular Publisher's Statement.

#### **(4) Newspapers Audited Every Other Year**

The yearly dues of newspapers audited every other year shall be one-half of the yearly dues for newspapers audited every year.

#### **(5) Weekly Newspaper Group Audit Plan**

The yearly dues of urban weekly newspaper members of a group audit plan shall be one-half of the yearly dues for weekly newspapers audited every year. Yearly dues of nonurban newspaper members of a group audit plan shall be one-quarter of the yearly dues for weekly newspapers audited every year.

#### **(6) Associate Members**

The annual dues of Associate Members may be set at different amounts, depending upon the nature of the activities of such members.

**(b)** A schedule of dues shall be on file at the offices of the Audit Bureau.

### **3.3 Report Service and Audit Costs**

**(a) Standard Report Service.** Members shall receive reports and services, as follows:

**(1) Advertiser, Advertising Agency and Associate Members** shall be entitled to receive service in accord with the schedule on file at the office of the Bureau.

**(2) Publisher Members** shall receive report service provided for in [B 4.10](#) of the rules.

#### **(3) Newspaper Supplements.**

Publications qualifying for associate membership as newspaper supplements shall receive semi-annual Newspaper Supplement Statements which shall report only a summary of the average total paid circulation and the average unpaid distribution of member newspapers of the Bureau with which the supplement is distributed and as reported in the distributing newspapers' Publisher's Statements. The records of newspaper supplement associate members shall be subject to audit at any time and to the extent determined necessary by the Bureau's management or the Board of Directors.

**(4) Consolidated Newspaper Groups** for which consolidated newspaper statements are issued under [C 6.2/C 106.2](#), shall receive the same service as that of publisher members under [B 4.10](#).

**(b) Additional Report Services.** In addition to the annual dues paid, each member of the Bureau may purchase reports and services at rates that may be established by the Bureau from time to time.

A schedule of the cost of reports and services shall be on file at the office of the Bureau.

**(c) Audits.** In addition to annual dues, each publisher member shall pay the cost of the audit and such other costs as may be required by the rules and standards of the Bureau. The hourly rates to be used in computing the costs of audits to publishers shall be established by the Bureau from time to time.

An amount comparable to the cost of the last audit, based on the hourly field and house auditing rates in effect at the time of billing, shall be payable in advance, this amount to be applied against the cost of the next audit. For purposes of this payment, all publication members other than weekly newspapers audited every other year and weekly newspapers participating in a group audit plan shall be billed quarterly for advance audit cost deposits. Weekly newspapers audited every other year shall be billed semi-annually for advance audit cost deposits.

Individual newspaper members of weekly newspaper group audit plans shall be billed semi-annually for advance audit cost deposits until they have been billed four times subsequent to the date of the most recently released audit. Such billings will be discontinued until the release of their next audit. Any difference between the amount paid and the actual cost of the audit will be adjusted after the audit is released and whenever a final audit is made following a resignation under [Bylaws Article 9](#). Any direct auditing cost paid by the resigning member but not

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

actually incurred in such final audit will be refunded to such resigning member, provided all other charges and dues have been paid to the Bureau.

### 3.4 International Publications

Publications outside the United States and Canada shall pay the extra cost involved over the amount of dues applicable to auditing service, prorated among the publications in the respective localities.

### 3.5 Publications Indebted to ABC

No Publisher's Statement shall be released or audit made of a publication delinquent in dues or otherwise indebted to the Bureau.

### 3.6 Adjustment of Dues

When, in the judgment of the Board of Directors, the regular dues from the members for any fiscal period are in excess of, or less than, the amount necessary for the operation of the Bureau, exclusive of the cost of services and audits, the Board of Directors may, for the succeeding fiscal period, revise the schedule of dues to meet more nearly the actual cost of the operation of the Bureau, taking into account the excess or deficiency, as the case may be, of dues previously paid.

### 3.7 Ownership of Copyright and Indemnification

**(a)** The members agree that title to all data which the members supply to the Audit Bureau of Circulations is assigned to and becomes the property of ABC. The Bureau shall obtain and retain ownership of its copyright and its copyrighted materials in whatever form disseminated, or from whatever source the copyrighted data was originally acquired.

**(b)** Any member furnishing circulation and other data to ABC, as is periodically required under the terms of being a member, or, to the Bureau's Data Bank, or any member being furnished, supplied or sold, with or without compensation, any data from the Bureau's Data Bank, is subject to the following provisions:

**(1)** ABC obtains legal title to all data supplied by members by an automatic assignment of title to the data from each member to ABC. ABC shall retain legal title to all data furnished to members.

**(2)** Members are granted the non-exclusive legal right to use any data or other publication protected or owned by ABC only in accordance with the terms set forth specifically in the Publicity Rules and only in accordance with all other bylaws, rules and policies. ABC shall retain the exclusive copyright to such data. The Publisher's Statements, Audit Reports and any report furnished to a member or members that is published by ABC incorporating data from any source shall bear at least the first sentence of the following inscription:

Copyright, Year (of publication) Audit Bureau of Circulations. All rights reserved. No part of this report, whether in written form or on magnetic tape or transmitted electronically, may be reproduced, used or transmitted in any form or by any means, without express written permission of the publisher, Audit Bureau of Circulations, 40 W. Seegers Road, Arlington Heights, Illinois 60005-3913.

**(3)** Members either supplying or receiving data agree to indemnify ABC against all loss, liability, damage and expense arising out of any claim of inaccuracy or error in such information, including but not limited to a claim by any other member reported in any form or by any other user of data from the ABC Data Bank.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

## Article 4 - Board of Directors

### 4.1 Responsibility, Vacancies

The control and management of the Bureau shall be vested in a Board of Directors consisting of 38 members who shall be individuals employed by and actively engaged in the operations of a member. These directors shall serve without salary and shall be elected for a term of two years and until the election and qualification of their successors. Any vacancy occurring may be filled by a majority vote of the directors present at any regular or special meeting of the Board of Directors. The director so elected or chosen to fill the vacancy shall serve until the next annual meeting of the Bureau. At such annual meeting the unexpired term, if any, of the vacant directorship shall be filled in accordance with the provisions of [Bylaw 4.3](#).

### 4.2 Membership Representation

For carrying out the objects of the Bureau, the different classes of voting members will be divided into the following divisions:

Advertiser Division; Advertising Agency Division; Newspaper Publisher Division; Magazine Publisher Division; Farm Publication Publisher Division; and Business Publication Publisher Division.

The Board of Directors shall consist of representatives from each division as follows:

Advertiser & Advertising Agency Divisions: 20 members

- Advertiser Division — at least eight members.
- Advertising Agency Division — at least seven members.

There shall be a combined total of sixteen U.S. Advertiser and Advertising Agency member representatives, three Canadian Advertiser and/or Canadian Advertising Agency member representatives, and one North American (U.S. or Canadian) Advertiser or Advertising Agency member representative on the ABC Board of Directors.

Publisher Divisions: 18 members

- Newspaper Publisher Division — nine members.
- Magazine Publisher Division — five U.S. members.
- Farm Publication Publisher Division — one U.S. member.
- Business Publication Publisher Division — two U.S. members.
- Magazine Publisher Division, Farm Publication Publisher Division, and Business Publication Publisher Division, jointly — one member identified as the Canadian Periodical Publisher Director (who shall be a Canadian member of one of these three divisions).

For the purpose of choosing the nine newspaper directors to the Board of Directors, the following classes of newspaper membership shall exist:

Class 1 — All Newspapers published in Canada.

Class 2 — All Newspapers published in Canada.

Class 3 — Daily Newspapers at-large published in the U.S.

Class 4 — Daily Newspapers at-large published in the U.S.

Class 5 — Daily Newspapers having 250,000 or more net paid circulation published in the U.S.

Class 6 — Daily Newspapers having from 100,000 to 250,000 net paid circulation published in the U.S.

Class 7 — Daily Newspapers having from 25,000 to 100,000 net paid circulation published in the U.S.

Class 8 — Daily Newspapers having less than 25,000 net paid circulation published in the U.S.

Class 9 — All Weekly Newspapers excluding newspapers published in Canada (newspapers published less than four times a week).

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

One director shall be from each of the above classes. Class 1, 3, 4 and 5 directorship positions expire on even years; while class 2, 6, 7, 8 and 9 directorship positions expire on odd years.

## 4.3 Nomination and Election

**(a) Nominations Generally.** At or prior to the annual meeting, the members shall meet, and voting members shall nominate and elect candidates to succeed the directors described in Bylaw 4.2 whose respective terms will expire.

**(1)** All nominations shall be made by the members of the respective divisions or special nomination groups in either one of the following ways:

**(a)** In writing addressed to the secretary at Bureau headquarters and received not later than 60 days prior to the opening session of the annual meeting, stipulating the name of the nominee, the directorship for which the nomination is made, and bearing the signatures of the nominator and a seconder, both eligible to vote at the group or divisional meeting at which the vote on the nomination shall be taken.

The secretary shall notify all members eligible to vote at each divisional meeting in the notice of the annual meeting to be sent to said members as hereinafter required by [Bylaw 6.1](#) of the name of each nominee so nominated, along with biographical data of each nominee.

**(b)** From the floor of the divisional or group meeting from members of the respective division or special nomination group present in person or by proxy and who are eligible to vote. All nominations shall stipulate the directorship for which the nomination is made.

**(2)** All of the members of each respective membership division or group present in person or by proxy and eligible to vote, shall be eligible to nominate and vote on the election of all of the directors to be elected to represent their respective division or group, except:

### **(b) Exceptions.**

**(1) Class 3, 4, 5, 6, 7 & 8 Newspaper Publisher Directors** constitute separate nominating groups within the Newspaper Division, and shall be eligible to nominate and to vote on the nomination of the directors representing their respective class.

**(2) Weekly Newspaper Director.** Only weekly Newspaper Publisher members (Class 9), who shall constitute a separate nominating group within the Newspaper Division, shall be eligible to nominate and vote on the nomination of the Weekly Newspaper Publisher director. Weekly Newspaper Publisher members shall not be eligible to nominate or to vote on nominations of the other directors representing the Newspaper Publisher Division.

**(3) Canadian Advertiser, Advertising Agency, and Newspaper Publisher Directors.** Only the Canadian members of the Advertiser, Advertising Agency and Newspaper Publisher Divisions, respectively, who shall constitute separate nominating groups within each of their respective divisions, shall be eligible to nominate and vote on the nomination of the Canadian directors representing their respective divisions. Canadian Advertiser, Advertising Agency and Newspaper Publisher members shall not be eligible to nominate or vote on the nomination of the other directors representing their respective divisions.

**(4) Canadian Periodical Publisher Director.** Only the Canadian members of the Magazine Publisher Division, Farm Publication Publisher Division and Business Publication Publisher Division, who shall collectively constitute a separate nominating group, shall be eligible to nominate and vote on the nomination of the Canadian director to represent those divisions jointly who shall be referred to as the Canadian Periodical Publisher director. The Canadian members of the Magazine Publisher Division, Farm Publication Publisher Division and Business Publication Publisher Division shall not be eligible to nominate or vote on the nomination of any other directors.

**(c) Designated Election.** Each director's position to be elected shall be identified by the secretary as a particular directorship. Each nomination made by the membership shall indicate the directorship for which the nomination is placed. Elections for each directorship shall be held between only those candidates nominated for the particular directorship.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

**(d) Election Standard.** The candidate or candidates nominated as hereinabove provided receiving the highest number of votes from the members eligible to vote, shall be declared the elected representative of each respective division or separate nominating group.

## 4.4 Powers

The Board of Directors shall have the power to make, publish and enforce such rules and standards as they may deem necessary for the proper conduct of the business of the Bureau. Such rules and standards shall be in full force and effect until repealed, modified, altered or amended by the Board of Directors. Any such rule or standard may also be repealed, modified, altered or amended by a majority of the members present in person or by proxy, by written ballot, at any regular meeting of the members of the Audit Bureau of Circulations or at any special meeting called for that purpose, provided that the proposed repeal, modification, alteration or amendment is set forth in the notice of the meeting, sent to all members as required by [Bylaws 6.1](#) and [6.7](#).

## 4.5 Meetings, Quorum, Attendance

The annual meeting of the Board of Directors shall be held immediately following the adjournment of the annual meeting of the members. Regular and special meetings of the board shall be held upon the call of the chairman of the board or of any five members of the Board of Directors. Ten days notice of the time and place shall be given in writing by the secretary to all directors of the holding of any board meeting. A majority of all members of the board shall constitute a quorum. A majority of all members of designated committees of the Board shall constitute a quorum of said committee.

The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors or a committee, unless the act of a greater number is required by the Illinois General Not-for-Profit Corporation Act of 1986 or these bylaws.

Any director who shall fail to attend at least two meetings during any 12-month period following election to the board shall be dropped from membership on the board by board action unless the director petitions the board for an exception to the application of this bylaw and such petition for an exception is approved by the board. Any director who shall cease to be employed by and actively engaged in the operations of a member, shall be dropped from membership on the board by board action.

Directors' meetings, either regular or special, may be held within or without the State of Illinois.

## 4.6 Committees

The Board of Directors shall create such committees as may be necessary for carrying on the work and accomplishing the objects of the bureau, the members of such committees and chair thereof to be appointed by the chair of the board subject to the approval of the Board of Directors. The members of any special investigation committee, as referred to in [Bylaw 4.7](#), shall be appointed and the chair thereof designated by the chair of the board.

## 4.7 Special Investigation

**(a)** When and as a special investigation of the circulation covered by a Publisher's Statement or an Audit Report is requested by a member or when the managing director is of the opinion that a special investigation of the circulation covered by a Publisher's Statement or Audit Report is advisable or necessary, then and in either of such events it shall be the duty of the managing director to advise the chair of the board that such request has been made or that such special investigation is advisable or necessary. The chair of the board shall forthwith appoint a committee to be designated as a special investigation committee consisting of three members. The chair of the committee shall be a member of the Board of Directors and the other two may be selected from either the Board of Directors or from the membership outside the Board of Directors. It shall be the duty of such committee to consult with and advise the managing director as to whether or not in any particular case a special investigation shall be made and to fix and determine the terms and conditions under which it shall be made.

**(b)** Each publication which requests an investigation shall make an advance deposit against the cost of the special investigation, in the amount determined by the special investigation committee.

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

(c) The direct and indirect costs of the special investigation shall be allocated as follows:

(1) If the deductions made are less than 1% of the publication(s) on which the investigation is being requested, the publication(s) that requested the investigation shall bear the entire cost.

(2) If the deductions made are more than 1% but less than 3% on this publication(s) on which the investigation is being requested, the publication(s) that requested the investigation shall bear 50% of the audit cost of the other publication(s) plus the entire cost of their own audit.

(3) If the deductions made are 3% or more on the publication(s) on which the investigation is being requested and 3% or more on the publication(s) that made the request, each publication will be charged for the audit hours required on the investigation of their respective publication(s).

(4) If the deductions made are 3% or more on the publication(s) on which the investigation is being requested and less than 1% on the publication(s) that made the request, the publication(s) on which the investigation was first requested shall bear the entire cost.

(5) If the deductions made are 3% or more on the publication(s) on which the investigation is being requested and between 1% and 3% on the publication(s) that made the request, the publication(s) on which the investigation was first requested shall bear 50% of the audit cost of the other publication(s) plus the entire cost of their own audit.

(d) No publicity shall be given to a special investigation either by the publication(s) being investigated or the Bureau until the special investigation is completed and the results issued either in the form of an Audit Report and/or Publisher's Statement at which time the provisions of [Chapter A, Publicity Rules](#) shall apply.

(e) Upon completion of the special investigation, the managing director shall make a report thereon to the Board of Directors.

### 4.8 Indemnification

(a) The Bureau shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Bureau) by reason of the fact that such person is or was a director, officer, employee or agent of the Bureau, or who is or was serving at the request of the Bureau as a director, officer, employee or agent of another Bureau, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, if such person acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Bureau, and, with respect to any criminal action or proceeding, such person had no reasonable cause to believe the subject conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that a person did not act in good faith and in a manner which reasonably believed to be in or not opposed to the best interests of the Bureau, and with respect to any criminal action or proceeding, had reasonable cause to believe that the subject conduct was unlawful.

(b) The Bureau shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Bureau to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Bureau, or is or was serving at the request of the Bureau as a director, officer, employee or agent of another Bureau, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Bureau, and except that no indemnification shall be made with respect to any claim, issue or matter as to which such person has been adjudged to have been liable for negligence or misconduct in the performance of duty to the Bureau, unless, and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

**(c)** To the extent that a director, officer, employee or agent of the Bureau has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Bylaw 4.8(a) and (b), or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith.

**(d)** Any indemnification under Bylaw 4.8(a) and (b) (unless ordered by a court) shall be made by the Bureau only as authorized in the specific case, upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Bylaw 4.8(a) and (b). Such determination shall be made: a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or; b) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

**(e)** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Bureau in advance of the final disposition of such action, suit or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that such person is entitled to be indemnified by the Bureau as authorized by this Bylaw 4.8. Such expenses (including attorney's fees) incurred by former directors and officers or other employees and agents may be so paid on such terms and conditions, if any, that the Board of Directors deems appropriate.

**(f)** The indemnification and advancement of expenses provided by or granted under the other sections of this Bylaw 4.8 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any Bylaw, agreement, vote of disinterested directors, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office.

**(g)** The Bureau shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Bureau, or who is or was serving at the request of the Bureau as a director, officer, employee or agent of another Bureau, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred in any such capacity, or arising out of such person's status as such, whether or not the Bureau would have the power to indemnify against such liability under the provisions of this Bylaw 4.8.

**(h)** If the Bureau has paid indemnity or has advanced expenses to a director, officer, employee or agent, the Bureau shall report the indemnification or advance in writing to the Board of Directors with or before the notice of the next Board of Directors' meeting.

### Article 5 - Officers

#### 5.1 Board Officers

**(a)** The officers of the Bureau shall consist of a chair of the board, four vice chairs (who may at the option of the board be designated first, second, third and fourth vice chair respectively), a secretary and a treasurer. One of the vice chairs shall be a representative of a publisher division. Two vice chairs shall be representatives of either the advertiser and / or advertiser agency divisions. One of the vice chairs shall be a representative of the Canadian member representatives on the ABC Board of Directors. These officers shall be elected by the Board of Directors from the members of the Board of Directors and shall hold office for a period of one year and until the election and qualification of their successors.

**(b)** No person shall be elected chair of the board who is not employed by or actively engaged in the operation of an advertiser or advertising agency member. The chair shall not serve for more than two consecutive terms.

**(c)** The Board of Directors shall elect a president who shall serve as chief executive and managing director of the Bureau; and also, at the discretion of the Board of Directors, one or more vice presidents whose function shall be determined by the Board of Directors. The president and vice presidents shall not be members of the Board of Directors. The president shall be responsible to the Board of Directors. The election of the president and the vice presidents, if any, shall be for a term of not more than 3 years or such shorter term as may be fixed for a nonprofit corporation by the laws of the State of Illinois from time to time in effect.

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

(d) The Board of Directors shall elect the President and Managing Director and any salaried officers and determine the term for which the individuals are elected.

### 5.2 Chair of the Board

(a) The chair of the board shall be the presiding officer at all meetings of the Bureau and of the Board of Directors. The chair shall appoint the members of such committees, designating the chairs thereof, as may be created by the Board of Directors for carrying on the work and accomplishing the objects of the Bureau, subject to the approval of the Board of Directors, and shall also be an ex officio member without vote, of all committees. The chair of the board shall also have the responsibility for calling regular and special meetings of the Board of Directors.

(b) In the absence or incapacity of the chair of the board, the vice chairs, in their successive order, shall perform the chairman's duties, and shall also perform such other special duties as may from time to time be delegated to them by the Board of Directors.

### 5.3 Secretary

The secretary shall keep a record of all meetings of the Bureau and of the Board of Directors and of any of the committees having authority of the Board of Directors.

### 5.4 Treasurer

The treasurer shall supervise the accounts of the Bureau, receive all monies, pay bills when properly approved and preserve vouchers for all payments. The treasurer shall render a report at the annual meeting of the Bureau and such other reports as may be required from time to time by the Board of Directors.

### 5.5 President and Managing Director

(a) The president in the capacity of managing director, and hereinafter referred to in this section and in the rules as the "managing director," shall, subject only to the general supervision of the Board of Directors, be charged with the responsibility for directing all operations of the Bureau required for carrying on the work and accomplishing the objects of the Bureau as authorized by the Board of Directors. He/she may, subject to the approval of the Board of Directors, appoint and designate two assistant managing directors and define their duties and fix their compensation.

(b) It shall be the duty and responsibility of the managing director to interpret and enforce the rules and standards fixed from time to time by the Board of Directors for the members of the Bureau, to investigate charges or accusations against members under [Article 7](#) of the bylaws, and to conduct the special investigations and make reports and recommendations thereon as provided in [Bylaw 6.7](#). He/she shall make all necessary contracts on behalf of the Bureau subject to the approval of the Board of Directors.

(c) He/she shall have the authority to employ, discharge, and fix the compensation of such employees as may be reasonably required for carrying on the general operations of the Bureau. He/she may appoint and employ such assistants under such designations as he may deem advisable and fix their compensation. He/she shall attend all regular and special meetings of the Board of Directors, and make a report annually to the Board of Directors, or more frequently if required by them, setting forth the progress and results of the operations under his charge, together with suggestions tending to improve the work of the Bureau.

(d) On behalf of the secretary and under his/her supervision the managing director shall keep and maintain at the registered office of the Bureau a record giving the names and addresses of the members entitled to vote and in the absence of the secretary, the managing director, the assistant managing director, or such individual on his staff as may be designated by him, shall perform the duties of acting secretary at regular or special meetings of the Board of Directors or of the membership, or at such other times as may be required for carrying on the work of the Bureau.

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

(e) The managing director shall also perform such other duties as the Board of Directors may require and he shall be responsible to the Board of Directors for all matters that may be necessary for the proper operation of the Bureau.

### 5.6 Bonding Officers or Employees

Such officers or employees as may be designated by the Board of Directors may be bonded for such sums as may be determined by the Board of Directors, the premiums on such bonds to be paid by the Bureau.

### 5.7 Removal from Office

Any officer may be removed from office by affirmative vote of at least two-thirds of the members of the Board of Directors whenever in their judgment the best interests of the corporation will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

## Article 6 - Membership Meetings

### 6.1 Time and Place of Annual Meeting

The annual meeting of the members of the Bureau shall be held at a time and place in the United States or Canada as determined by the Board of Directors. Notice in writing shall be given by the secretary to all members not less than 10 days nor more than 40 days prior to the date of such meeting.

### 6.2 Votes, Proxies

(a) For purposes of voting at annual or special meetings of the members of the Bureau, members may cast their vote or votes on each proposition, nomination or election brought before any sessions of the meeting, or before the divisional meeting of the membership division to which the member is designated. There shall be no cumulative voting. Each proposition or directorship to be elected may receive only those votes to which the member would be entitled if only one proposition or directorship were being voted upon.

(b) Each national advertiser member, each advertising agency member and each publisher member (except provisional publisher members) shall have one vote, except newspaper publisher members audited every other year and the individual newspapers participating in a weekly newspaper group audit plan, who shall have a fractional vote of one-half; each regional advertiser member shall have a fractional vote of one-half. Votes may be cast in person or by proxy. Associate members do not have voting rights.

(c) A Credentials Committee shall be selected by the President and Managing Director and approved by the Chair of the ABC Board of Directors. The Credentials Committee shall consist of at least five members, one of whom shall be designated as chair, and three members shall constitute a quorum. This committee will be charged with the duty of receiving and passing upon the credentials and proxies of members for the annual meeting and shall report to the chair of the meeting the number of votes present in person and by proxy eligible to vote at the annual meeting and the respective divisional meetings. The committee may act upon the affirmative vote of a majority of the members present at any meeting duly called at which a quorum is present. Information contained in the proxies will be deemed confidential until the convening of the respective meetings unless otherwise authorized by the Board of Directors. When more than one individual is named in a proxy, the decision of the individual first designated on the proxy and present at the meeting shall control.

(d) Proxies must be filed at the office of the managing director not later than the close of business on the Friday of the week preceding the first day of the meeting at which they are to be voted. The Credentials Committee shall recognize no proxies filed after that time.

(e) The proxy of a member must be executed by an officer of the corporation/member or publisher or member representative of such member.

Substitution of a recorded proxy signed by the original proxy or one of them, if more than one, and identifying the original proxy, must be filed with the managing director or his representative either at his office or at the place of the annual meeting not later than noon on the first day of

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

the meeting at which such proxy is to be voted.

(f) The proxy of each division or group member eligible to vote on the election of its group or division's directors may be designated by the eligible member to be cast in favor of, or against, or left blank without designation, one of the eligible nominees, whose names have been placed in nomination for each directorship position to be elected in accordance with the bylaws.

(g) Any members in arrears for more than one quarter's dues or otherwise in arrears of indebtedness to the Bureau, shall not have the right to vote in person or by proxy at any regular or special meeting of the Bureau until such arrearage of dues or indebtedness is paid.

## 6.3 Quorum

At any meeting of the Bureau members holding one-tenth of the full votes entitled to be cast, represented in person or by proxy, shall constitute a quorum for the transaction of business, and a majority vote shall decide all questions, unless otherwise provided by the bylaws.

## 6.4 Resolutions

All resolutions must be submitted in writing to the chair before being put to vote.

## 6.5 Reports

At the annual meeting the chair of the board shall report upon the activities of the Bureau and the treasurer shall submit a financial report.

## 6.6 Special Meetings

Special meetings of the Bureau may be called by the chair of the board or by the Board of Directors. A special meeting may also be called by members having one-twentieth of the full votes entitled to be cast at such meeting. Special meetings shall be held at a place to be designated by the Board of Directors. Notice of the date and purpose of such meeting shall be sent by the secretary to all members at least 10 days prior to the date of such meeting.

## 6.7 Procedures

Except as expressly provided herein, the procedure at all meetings of the Bureau, divisional meetings and committee meetings, shall be governed by "Robert's Rules of Order."

## Article 7 - Offenses and Punishment

### 7.1 Vote Required for Probation, Sanctions, Censure, or Expulsion

The penalties of probation, sanction, censure, or expulsion may be imposed by the affirmative vote of a majority of all members of the Board of Directors.

### 7.2 Offenses

Should any member be found by the Board of Directors to have committed any of the following offenses, the Board must consider whether to invoke any of the provisions of this Bylaw with regard to the imposition of probation, sanctions, censure, or expulsion:

(a) failing to file Publisher's Statements as required by the rules;

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

- (b) filing a false or fraudulent Publisher's Statement with the Bureau;
- (c) refusing to allow an auditor of the Bureau full access at any time to all records as provided by the bylaws;
- (d) failing to pay dues or other indebtedness as required by the bylaws;
- (e) violating any bylaw or rule of the Bureau;
- (f) violating any agreement made with the Bureau or its subsidiaries;
- (g) dishonest, fraudulent or dishonorable conduct in dealings with the Bureau or its subsidiaries;
- (h) any act deemed by the Board of Directors to be detrimental to the interests or welfare of the Bureau or its subsidiaries; such member may be censured, placed on probation or expelled by the Board of Directors;
- (i) release of an audit of a daily newspaper with circulation of 25,000 or more, or the release of two consecutive audits of weekly newspapers, daily newspapers with less than 25,000 circulation and periodicals wherein the auditor adjusted the Publisher's Statement claims of circulation by 5% or more.

### 7.3 Charges by a Member

- (a) Any member may file with the Board of Directors charges against any other member. Charges so filed shall be in writing; they shall specify the offense with reasonable detail and shall be signed by the person or persons making the charge or charges. A copy of such charge or charges shall be served by the managing director upon the accused member, either personally or by leaving the same at the member's business address as registered with the Bureau, during business hours or by mailing it to said members at said registered business address.
- (b) Said member shall have 10 days from the date of such service to answer the same or such further time as the board in its discretion may deem proper. The answer shall be in writing, signed by the accused member, and filed with the managing director. A copy of said letter shall be sent to the member making the charges.
- (c) Upon the answers being filed, or if the accused shall refuse or neglect to make answer as hereinbefore required, the board shall, at a regular or special meeting subsequent to the close of the 10-day period in which the answer is due, proceed to consider the charge or charges. Reasonable notice of such meeting shall be sent to the accused member; who shall be entitled to be personally present thereat and shall be permitted to examine and cross-examine all the witnesses produced before the board and also to present such testimony defense or explanation as the member may deem proper. After hearing all the witnesses and the member accused, if the member desires to be heard, the board shall determine whether or not the accused member has committed the offense or offenses charged. If it determines that the accused has committed the offense or offenses charged, the board may censure, place on probation or expel such member.

### 7.4 Charges by the Managing Director

If at any time the managing director shall have reason to suspect that any member has committed an offense, as defined in Bylaw 7.2, and no action has been taken by any member in accordance with Bylaw 7.3, the managing director shall investigate whether or not there is just ground for such suspicion. If there is just ground for such suspicion, the managing director is authorized to file with the board a written accusation against the suspected member stating specifically the acts or omissions charged. A copy of said accusation shall be served upon such member, who shall be required to answer and a hearing shall be held as provided in Bylaw 7.3.

### 7.5 Probation

When any member shall have been found by the Board of Directors to have committed an offense as defined in Bylaw 7.2, and placed on probation, the term of probation shall be fixed by the Board of Directors. All Publisher's Statements and Audit Reports released after the date

## 2010 Bylaws & Rules Book, Edition BK3 – U.S.

such member is placed on probation and during the term of probation shall contain in a prominent place thereon a statement that said member is on probation. The statement and the form in which it is made is to be determined by management and shall set forth the designated sections of the bylaws or rules against which offense has been committed and the term for which probation has been fixed. During any period of probation, any use of the ABC insigne must be accompanied by a statement that the publication is on probation.

### 7.6 Sanctions

When any member shall have been found by the Board of Directors to have committed an offense, as defined by Bylaw 7.2, the Board of Directors may impose any one or more of the following sanctions:

- (a) a notice of application of sanctions may be distributed to the entire membership, indicating the sanctions imposed by the Board of Directors.
- (b) circulation data may be excluded from the ABC FAS-FAX report for a period of one year.
- (c) the publication may be required to undergo six-month audits for a period of two years following the imposition of sanctions.
- (d) the first audit to be released following the imposition of sanctions may be accompanied by a 'resumption of report services' notice, and, if applicable, such notice may make reference to the status of previously released Publisher's Statements and Audit Reports.
- (e) a cash fine may be levied against the member.
- (f) the member may be required to submit a 'plan for corrective action,' to be reviewed by ABC staff, and approved by the Board of Directors.

### 7.7 Censure

When any member shall have been found by the Board of Directors to have committed an offense, as defined by Bylaw 7.2, and is censured the following will occur:

- (a) a notice of suspension of report services will be distributed to the entire membership, indicating that the member is censured.
- (b) circulation data for a censured member will be excluded from the ABC FAS-FAX report for a period of one year immediately following the vote to censure.
- (c) all censured publications must undergo six-month audits for a period of two years following the vote to censure.
- (d) the first audit to be released following the vote to censure will be accompanied by a 'resumption of report services' notice, and, if applicable, such notice may make reference to the status of previously released Publisher's Statements and Audit Reports.
- (e) a cash fine may be levied against the member.
- (f) the member will be required to submit a 'plan for corrective action,' to be reviewed by ABC staff, and approved by the Board of Directors.

### 7.8 Expulsion

When any member shall have been found by the Board of Directors to have committed an offense, as defined in Bylaw 7.2, and expelled, a favorable vote of a majority of all members of the Board of Directors shall be required to readmit an expelled member. An expelled member shall not be readmitted to membership until all indebtedness to the Bureau existing at the time of the expulsion is paid; a readmission fee, to be fixed by the Board of Directors in each case, shall be required.

### 7.9 Appeal of Board Decisions

Any member who has been censured, placed on probation or expelled by the Board of Directors may appeal the decision to the membership at the next meeting thereof. The decision of the Board of Directors shall remain in full force and effect until reversed by the membership.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

## Article 8 - Appeals

### 8.1 Appeal to Board of Directors

Any member shall have the right to appeal to the Board of Directors any decision of the managing director interpreting or enforcing the rules and standards fixed from time to time by the Board of Directors for the members of the Bureau and the bylaws or from any action by the management affecting such member.

### 8.2 Procedure

An appeal from a decision by the managing director or from any action by the management must be filed in writing at the headquarters office of the Bureau not less than 10 days before the meeting of the Board of Directors at which the appeal is to be considered and the facts in support of the appeal must be embodied in the communication submitted by the member.

## Article 9 - Resignations

### 9.1 Publisher

A publisher member may tender resignation from the Bureau by giving notice of such intention to the Bureau in writing prior to the end of the regular statement period covered by the class of membership. Such resignation shall be accepted, provided all indebtedness to the Bureau is paid in full; and an audit of all released Publisher's Statements subsequent to the last released Audit Report is completed.

If a resigning member complies with all requirements stated above, or if a "Termination Audit" has not been started within three months following the end of the Publisher's Statement period covered by the resignation for any reason other than those which may be caused by acts or omissions of the resigning member, and if all charges and dues have been paid, the resignation shall automatically take effect and all amounts previously paid by said resigning member as advance audit costs shall be adjusted between the resigning member and the Bureau.

If a publisher does not comply with the resignation requirements of this section, the Board of Directors or its designated committee may waive compliance of the requirements or may, pursuant to the provisions of [Article 7](#) of the bylaws, terminate the membership of the publication.

If an audit covering the publication's most recently released Publisher's Statement has not been completed and an Audit Report released, all amounts previously paid by said resigning member as dues and advance audit costs may be retained by the Bureau.

### 9.2 Non-Publisher

A member, other than a publication member, may resign by giving the Bureau notice, in writing, of such intention. Such resignation shall be accepted provided dues for the quarter during which the resignation is tendered and all other indebtedness to the Bureau are paid in full.

### 9.3 Release of Right to Assets

Termination of membership, for any cause whatsoever, shall operate as a release of all right or title to or interest in the property and assets of the Bureau.

### 9.4 Reinstatement of Membership

A member whose membership is terminated by the Board of Directors, or for any other reason, or by resignation, may be reinstated upon such conditions as may be fixed by the Board of Directors.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

## Article 10 - Exceptions

### 10.1 To Bylaws and Rules

The Board of Directors or its designated committee may grant a member an exception to the rules, standards or bylaws of the Bureau. Such exceptions may be granted when in the opinion of the Board it would be equitable considering the circumstances of the requesting member and other members who are similarly situated or when, in the opinion of the Board, the circumstances peculiar to the requesting member are such that enforcing the rule, standard or bylaw will not accomplish the intended purpose or will work a substantial hardship on the requesting member.

### 10.2 Procedure

A request for an exception to the rules, standards or bylaws of the Bureau must be filed in writing by the requesting member at the headquarters of the Bureau not less than 14 business days before the meeting of the Board of Directors at which the request is to be considered, and shall include facts and circumstances supporting the request. The request must be signed by the publisher or an individual in executive management (e.g., president, CEO, etc.) other than the circulation executive.

### 10.3 Vote Required

An affirmative vote of two-thirds of all the directors then present at the Board meeting or a unanimous vote by its designated committee at which it is presented shall be required to grant any requested exception to the bylaws, rules or standards of the corporation.

## Article 11 - Amendments

### 11.1 Bylaws in Force

These bylaws shall be and remain in full force and effect unless repealed or amended by the Board of Directors.

### 11.2 Change in Bylaws and Rules

Any amendment to the bylaws and Chapters A and B of the rules shall require the approval of the Board of Directors by an affirmative vote of a majority of all of the directors then present.

Any changes to Chapters C through F of the rules or report formats may be adopted by the Board of Directors by an affirmative vote of a majority of all of the directors then present or by the designated committee of the Board by the unanimous vote of the members of the committee then present.

No change in bylaws, rules or report formats shall be adopted by Board of Directors or, if applicable, the designated committee at the meeting at which the change is first proposed except upon unanimous consent of the members of the designated committee then present.

Any Board member may request that an item considered by a designated committee of the Board also be reviewed by the full Board of Directors.

From time-to-time technical corrections or other edits to bylaws or rules may become necessary so as to correct a printing error, amplify, clarify, or otherwise bring rules in conformance with current industry terms and vernacular. In these cases ABC staff is authorized to amend Bureau rules provided that the spirit or intent of the rule is not altered and the ABC Board of Directors is given 30 days notice of such changes.

# 2010 Bylaws & Rules Book, Edition BK3 – U.S.

## Article 12 - Applicable Law

### 12.1 Choice of Law

The laws of the State of Illinois shall govern the validity, interpretation, construction and effect of any and all bylaws and rules of the Bureau. Any litigation between the Bureau and its members shall be governed by the laws of the State of Illinois.

### 12.2 Choice of Forum

Any and all claims or suits involving the Bureau shall be adjudicated in the Circuit Court of Cook County, Illinois, or the United States District Court for the Northern District of Illinois. Each member consents to and submits to the jurisdiction of these courts for this purpose.

### 12.3 Severability

If any term or provision of these bylaws is held to be void or unenforceable, such term or provision, at the option of the Bureau, shall be deemed omitted and these bylaws with such terms or provision omitted shall remain in full force and effect.

### 12.4 Compliance with Law

All members shall have exclusive responsibility to abide by all national, federal, state, provincial and any other governing law. No Bureau bylaw, rule, policy, or practice shall be construed as requiring a member to take any action that conflicts with any governing law. The Bureau shall have no obligation to issue statements of circulation data or other data that do not comply with both the governing laws and the Bureau's bylaws, rules, policies and practices.