

RECEIVED

NOV 20 1991

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C., 20554

Federal Communications Commission  
Office of the Secretary

In the Matter of

Review of the Policy Implications  
of the Changing Video Marketplace

)  
)  
)  
)  
)

MM Docket No. 91-221

COMMENTS OF ESPN, INC.

1. ESPN, Inc. ("ESPN") respectfully submits these comments in connection with the Notice of Inquiry in the above-referenced proceeding. ESPN is the nation's largest sports programming network and is seen in approximately 58.9 million homes in the United States. While ESPN's primary vehicle for the household delivery is cable television, the service is widely available through other nonbroadcast media, including TVRO, SMATV and MMDS systems. Indeed, by all accounts, ESPN is the most widely distributed nonbroadcast programming service of any kind in the nation. ESPN distributes over 5000 hours of original programming each year covering over 60 sports.

2. ESPN offers these comments for the purpose of correcting the record and insuring that the Commission is in possession of accurate facts in considering the subject of sports telecasts on cable. This need arises from two principal sources. First, given the substantial impact of sports rights obligations on the financial condition of the three major broadcast networks, it can be anticipated that analysis will be given by the Commission to the subject as regards the competitive position of broadcast networks and stations. Second, the Office of Plans and Policy ("OPP") working paper which gives rise to this proceeding points directly (on page 79) at ESPN's Major League Baseball and National Football League telecast contracts and summarily but erroneously concludes that both exist to the detriment of broadcasters, viewers or both.

3. In 1989, ESPN offered testimony before the Antitrust Subcommittee of the Senate Judiciary Committee which was then conducting an inquiry on the subject of sports programming on cable. Committee members had expressed concern that sports events were being "siphoned" off broadcast television to the detriment of the viewing public. ESPN offered the Committee clear evidence that on a national basis the growth of cable sports programming had not resulted in a diminution of sports programming available on over-the-air television. That same statement is true today. Attached as Exhibit A hereto is a chart indicating the number of hours of sports programming presented on all three national networks over the past eleven years. Over that span, the combined total has grown by 200 hours. Exhibit B presents this same case in a breakdown by sports events covered. Again, the conclusion is unmistakable -- the availability of sports event coverage on network television has never been greater.

4. Cable television has added to the national distribution of sports events and has provided an outlet for events which have never before been seen on a regular, national basis. Notwithstanding this growth, broadcast networks have continued to augment their distribution and continue to televise all the major team sports championships, major college bowl games, the Olympics, and the finals of almost all major golf and tennis tournaments.

5. Recent financial difficulties faced by the sports divisions of all three networks are not the result of the "migration" of games to cable. Supply of programming is clearly not an issue. Rights fees have escalated beyond the ability of advertising sales to support them principally due to vigorous competition among the networks themselves for event rights and an unforeseen downturn in the advertising market. Still, the networks reach every home in America and will remain a powerful source for the distribution of sports events for the viewership they attract, the promotional opportunities they present, the ancillary programming they spawn and the prestige they bestow. Rights fees will adjust to the market.

6. Let us turn now on more detail to the National Football League and Major League Baseball issues. ESPN is now in its fifth year of

televising games of the NFL. It is by far the most popular programming which appears on the network. The OPP report correctly describes the increased national audience ESPN delivers for games which would otherwise only be regionally distributed but we respectfully disclaim any affirmation of the description of our package (along with a similar package on TNT) as the "best" example of the siphoning "phenomenon." Our package exists (to the delight of millions of fans) but it is not representative of any exceptional or negative trend as the "siphoning" issue has so often been erroneously framed in Washington. A check of Exhibit A will show that in 1990, the first year of a full-season cable package of NFL games, the NFL televised more games over the national networks than ever before. The result is that cable has provided more, not fewer, viewer opportunities for NFL games.

7. Even more disturbing than the NFL analysis is the OPP description of ESPN's contract with Major League Baseball which OPP says has caused some broadcast station viewers to "lose access" to baseball telecasts. This conclusion is absolutely incorrect.

8. When ESPN's baseball contract was first announced it was immediately attacked by broadcast stations as one which would result in fewer games being telecast on local over-the-air stations and thus harmful to stations and viewers alike. ESPN responded (in its Senate testimony and elsewhere) that the package had only very modest exclusivity provisions, would not diminish local broadcast coverage and that in addition to the thousands of games already being locally televised, hundreds more games would be available for additional local distribution notwithstanding ESPN's activities. Our analysis proved entirely accurate. Local broadcasts of baseball games continue to increase and in 1991 Major League club telecast an all-time high 1,674 over-the-air games.<sup>1</sup> It is clear that local over-the-air schedules have been adjusted to account for the provisions of baseball's national commitments and that ESPN's coverage has not decreased the availability of local games to viewers.

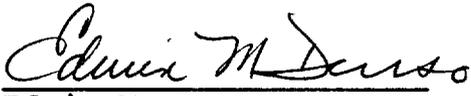
---

<sup>1</sup> Source: Major League Baseball, Office of the Commissioner

9. ESPN applauds the efforts of the Commission and its staff to address matters affecting broadcast television and trusts that these brief comments will aid in the evaluation of issues relating to sports and television.

Respectfully submitted,

ESPN, Inc.

By:   
Edwin M. Durso  
Executive Vice President,  
Network Marketing & General Counsel

November 21, 1991

## EXHIBIT A

BROADCAST NETWORK SPORTS HOURS

<u>YEAR</u>	<u>ABC</u>	<u>CBS</u>	<u>NBC</u>	<u>TOTAL</u>
1980	459	427	426	1312
1981	433	432	438	1303
1982	404	501	447	1352
1983	438	530	473	1441
1984	431	538	483	1452
1985	423	533	498	1454
1986	425	532	479	1436
1987	441	545	497	1483
1988	468	531	458	1457
1989	441	632	398	1471
1990	447	654	411	1512

SOURCE: A.C. NIELSEN CO. - EXCLUDES OLYMPIC COVERAGE

TOTAL SPORTS EVENTS TELECAST  
ABC, CBS AND NBC  
(1980-1990)

<u>YEAR</u>	<u>AUTO</u>	<u>COLLEGE BASKETBALL</u>	<u>COLLEGE FOOTBALL</u>	<u>GOLF</u>	<u>MLB</u>	<u>NBA</u>	<u>NFL</u>	<u>TENNIS</u>
1980	5	34	37	74	57	36	90	23
1981	5	44	34	70	59	40	91	25
1982	10	56	43	68	62	40	66*	25
1983	8	61	41	73	59	26	94	29
1984	9	67	37	69	56	32	94	24
1985	13	68	40	80	63	32	95	37
1986	16	63	41	84	71	33	94	26
1987	16	74	43	89	66	37	66*	34
1988	20	74	40	102	58	42	87	30
1989	20	79	46	103	56	36	89	26
1990	20	83	46	115	32	42	97	29

SOURCE: A.C. NIELSEN CO.  
 INCLUDES ALL REGULAR SEASON AND POST-SEASON TELECASTS  
 \*STRIKE YEAR