the club locally and thereby bolster home attendance.[62]

26. With respect to the centralized control of television rights that is unique to professional football, NFL asserts that its ability to sell the rights for all of its teams is of significant benefit in controlling and limiting any potential future migration of programming. It also contends that centralized control ensures a competitive balance, in that more popular teams cannot obtain a more lucrative contract than other teams or dominate the broadcast stations so as to force less popular teams off of broadcast television and onto cable or pay-per-view.[63] Further, NFL submits that shared television revenue is the largest single source of revenue for NFL teams; in 1993, each NFL team will receive over $39 million from the network contracts, a sum that is projected to represent over 60 percent of the average team's revenue.[64]

27. The record indicates that professional football has experienced no migration, as all regular season and post-season games are shown on broadcast television. Charts 2 and 3 of Appendix C detail national broadcast and cable NFL telecasts since 1980. No commenter contends that professional football games have migrated from broadcast to cable television. Commenters agree with NFL that its current cable arrangements make games available nationwide that would otherwise have only been available on a regional basis.[65]

C. Professional Basketball

28. In addition to the general information requested pursuant to our inquiry, the Notice sought comment on the transfer of individual NBA games from local television to cable networks. The Notice also specifically requested information regarding the Philadelphia 76ers' pay-per-view package and documentation of changes over time in the exhibition of playoff games.[66]

29. Since 1980, the NBA regular season has consisted of 82 games, with each team playing 41 home games and 41 away games. The 27 NBA teams are divided into the Eastern Conference (Atlantic and Central Divisions) and the

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[62] Id. at 29-30.

[63] Id. at 23-24.

[64] NFL submits that the total value of its five television contracts is approximately $3.6 billion in terms of rights fees. Id. at 16-17.

[65] NFL Comments at 18; ESPN Comments at 7-8; NCTA Comments at 19-20; Turner Comments at 5.

[66] Notice at 1495.

Chart 13: National Regular Season College Basketball Games Broadcast (1980-1993)

Season	No. of Broadcasts	Rating
1980-81	24	6.5
1981-82	40	6.2
1982-83	45	6.8
1983-84	50	4.7
1984-85	49	4.4
1985-86	44	4.6
1986-87	56	3.7
1987-88	56	3.9
1988-89	62	3.6
1989-90	70	3.1
1990-91	58	2.9
1991-92	58	2.8
1992-93	32	2.4

1980-81 data is NBC only; 1981-82 to 1985-86 data is NBC and CBS only; 1986-87 to 1991-92 is NBC, CBS and ABC data combined; 1992-93 game total is for ABC and NBC only and the rating average is NBC only.

CBS reply comments, Appendix A; Cap Cities/ABC comments, Exhibit A; and NBC comments, Exhibit E.

Chart 14: Average Ratings of Tournaments and Championship Basketball Games on CBS

Year	Tournaments	Championship Games
1982	9.9	21.6
1983	10.3	22.3
1984	9.2	19.7
1985	9.8	23.3
1986	9.2	20.7
1987	9.2	19.6
1988	9.4	18.8
1989	10.0	21.3
1990	9.5	20.0
1991	8.3	19.4
1992	9.0	22.7

CBS reply comments, Appendix A.

NOTE: NBC carried 11 tournament games in 1981 with an average rating of 10.9.
NBC comments, Exhibit E.

Western Conference (Midwest and Pacific Divisions).[67] There are four rounds of post-season play. Since the 1983-84 season, the first round has featured 16 teams — the four Division winners and the six teams in each Conference with the next best records — in eight best-of-five series. The Conference semifinals feature the eight first round winners in four best-of-seven series. The Conference finals feature the four semifinal winners in two best-of-seven series, and the NBA finals feature the two conference champions in a best-of-seven series.[68]

30. NBA has national contracts with NBC and TNT that began with the 1990-91 season and expire at the end of the 1993-94 season. Revenues from the NBC and TNT contracts are shared equally by all teams.[69] Pursuant to its contract with NBA, NBC is authorized to broadcast up to 61 games each season. These 61 games include between 17 and 26 regular season games (including the All-Star Game), between 19 and 28 playoff games, and all of the games of the NBA Finals. No telecasts may be licensed to any other national broadcast network and no team may televise any game by any means during the broadcast of a game by NBC. TNT is authorized to telecast at least 50 preseason and regular season games, certain special events related to the All-Star Game, and up to 30 games during the first three rounds of the playoffs. All games televised by TNT are also available for over-the-air broadcast or cablecast in the local markets of the competing teams, and all TNT cablecasts are blacked out on cable systems within a 35-mile radius of the city of operation of the home team. No NBA telecasts may be licensed to any other national cable network and no superstation game may be telecast nationally on the same night that TNT telecasts an NBA game.[70]

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[67] NBA Comments at 7. From 1980-81 through 1987-88, there were 23 NBA teams. There were 25 teams in 1988-89, and there have been 27 teams since 1989-90. Id. at 8.

[68] Id. at 9-10. Prior to the 1983-84 season, the first round of playoffs featured the four teams from each Conference with the best records, excluding the Division champions, in four best-of-three series. The second round featured eight teams — the four first-round winners and the four regular season Division champions in four best-of-seven series. The third round featured the four semifinal winners in two best-of-seven series, and the fourth round, the NBA finals, featured the two Conference champions in a best-of-seven series. Id. at 7-9.

[69] NBA notes that it has been reported publicly that NBC agreed to pay $601 million to the NBA for the rights it purchased and that TNT agreed to pay $275 million. NBA Comments at 12. NBA also notes that on average for the 1991-92 regular season, total broadcasting income (including national broadcast and cable, local and regional broadcast and cable, local radio and other broadcast income) accounted for 43.2 percent of revenues. Gate receipts accounted for 41.9 percent of revenues, and other sources of income accounted for the remaining 14.9 percent of revenues. Id. at 17-18.

[70] Id. at 12-13.

31. With respect to local telecasts, each NBA team is permitted to broadcast or authorize broadcast of its games within the team's home state or within 150 miles of the team's city of operation, provided that no station carrying the team's games is located within another team's territory. Each team is also permitted to authorize the telecast of its games via cable or satellite within 75 miles of the team's city of operation. Beyond 75 miles, regional cable or satellite distribution is permitted as long as the telecaster enters into an agreement with the NBA. NBA expects that during the 1992-93 regular season, teams will broadcast from 1 to 41 games on local over-the-air television and from zero to 74 games on local or regional cable. NBA submits that there were 736 local/regional broadcasts and 922 local/regional cablecasts during the 1992-93 regular season. See Appendix C, Chart 6. In addition, some local NBA flagship stations are also superstations and thus will distribute games locally over the air and nationally via cable. NBA submits that in 1992-93, WTBS will carry 30 Atlanta Hawks games, WGN will carry 30 Chicago Bulls games and WWOR will carry 10 New Jersey Nets games. These games may be blacked out in the home team's local area if the team is not broadcasting the game locally over the air.[71]

32. INTV expresses concern regarding migration of local NBA games from broadcast to cable television. INTV asserts that while the number of NBA games appearing on local television stations has increased in the aggregate, this is largely due to expansion of the league. INTV submits that games appearing on pay cable channels has increased from 540 games in 1985-86 to 750 games in 1989-90. Specifically, INTV notes that a Philadelphia station broadcast 42 76er games in 1988, 1989 and 1990, but has broadcast only 10 games since the 1991-92 season, as the remaining games have gone to PRISM, a pay cable channel.[72] INTV notes that beginning with the 1994-95 season, all 76er games will be on PRISM or SportsChannel, another cable sports network. INTV contends that the broadcast station was willing to pay rights fees but that PRISM outbid the station.[73] Further, INTV asserts that broadcasts of Knicks games have dropped from 27 in 1989-90 to two in 1991-92, and that

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[71] Id. at 13-15.

[72] NBA notes that no 76ers games are distributed on a pay-per-view basis as indicated in the Notice. Rather, the 76ers games are carried in Philadelphia by WPHL and by PRISM/SportsChannel. NBA submits that during the current season, seven 76ers games are scheduled for WPHL, 13 for SportsChannel Philadelphia (basic cable), and 61 for PRISM (pay cable). NBA Comments at 16.

[73] NBA specifically disputes INTV's claim that all 76er games will be on PRISM as of 1994. It argues that there is no reason to believe that 76er games will not continue to be shown by the current broadcaster or another broadcast station. See NBA May 6, 1993, Supplemental Comments at 1.

broadcasts have also decreased in Boston.[74] Similarly, the New York City Department of Communications and Energy argues that the overwhelming majority of regular season games of the New York Knicks have been shown exclusively on the Madison Square Garden Network; NYC submits that only two Knicks games during the 1991-92 season could be watched over broadcast television.[75] In this regard, Tribune notes that WPIX has been offered the rights to broadcast Knicks games as a package together with New York Rangers hockey games, and that WPIX has declined because it is only interested in Knicks games.[76]

33. On the other hand, NBA and other commenters contend that cable has supplemented broadcast coverage of NBA games to the benefit of the league and the public. NBA submits that in the late 1970s and early 1980s, NBA games were frequently played to half-empty arenas, that several teams were on the verge of financial collapse, and that there was little interest in NBA basketball as a television attraction. NBA asserts that it was able to enhance interest in NBA games through use of broadcast television along with other media.[77] Madison Square Garden Corp. contends that in the mid-1980s, WWOR's interest in broadcasting the Knicks diminished due to low ratings and that WPIX, the only other available VHF independent, was not interested in televising the games. It notes that MSG Network subsequently picked up the Knicks games previously televised by WWOR.[78] NCTA asserts that broadcast coverage has increased over the last five years and that the majority of NBA games made available to cable are home games, which are not typically shown on local stations.[79] Turner notes that the broadcast networks predominantly carry weekend games, while TNT's primary NBA coverage is of Monday through Friday games, which were not previously available on network television. Thus, it argues, the number of regular season games available to fans has increased rather than fallen.[80] Similarly, ARC, which owns regional sports channels, submits that local broadcasters have continued to air a substantial number of NBA games while the regional sports networks have expanded the number of televised games.[81]

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[74] INTV Comments at 27-28; INTV Reply at 36-37. Conversely, NBA argues that the Knicks were not carried at all on local broadcast television in 1989-90, and that the number of Celtics broadcasts has not declined. Id. at 1-2.

[75] NYC Comments at 3-4.

[76] Tribune Comments at 4-5.

[77] NBA Comments at 3-4.

[78] MSG Comments at 5-10; accord NBA May 6, 1993, Supplemental Comments at 1-2.

[79] NCTA Comments at 17-19.

[80] Turner Comments at 4-5.

[81] ARC Comments at 6-7.

34. It does not appear from the data submitted that professional basketball has migrated from broadcast to cable television to a significant extent, either at the national or local level. Charts 4 and 5 of Appendix C detail national NBA telecasts since 1980, and Chart 6 includes data regarding local NBA telecasts since 1981. Chart 4 estimates that an all-time high of regular season games will be broadcast nationally in 1992-93 (25 games), and Chart 5 shows that post-season national broadcasts increased from a low of 19 in 1982-83 to a high of 28 in 1991-92. Local broadcasts of regular season games have also increased. Chart 6 shows a low of 465 regular season games broadcast in 1982-83 and a high of 736 games broadcast in 1992-93. Local post-season broadcasts have been less steady. Chart 6 shows a high of 60 post-season broadcasts in 1983-84, the first year of the expanded playoff format, as compared with 47 local post-season broadcasts last year, and a low of 44 post-season games broadcast in 1985-86 and 1988-89, due at least in part to shorter series in those years. While the expansion of the league may account for some increase in the number of games, removal of games played by expansion teams would not affect the data so as to raise concerns that professional basketball is in danger of migrating away from broadcast television.

D. Professional Baseball

35. In addition to general data regarding Major League Baseball, the Notice requested comment on plans for future national cable carriage. We also sought comment on the decline over the last several years in the number of MLB games on the national broadcast networks and the shift of games of individual teams from a local television station to a regional cable network.[82]

36. Major League Baseball is divided into two leagues, the National League and the American League. Each league consists of 14 teams, split into Eastern and Western Divisions of seven teams each. Each team plays 162 games during the season, of which 81 are home games and 81 are away games. An All-Star Game is played at mid-season. At the end of the regular season, the top teams in the 2 divisions in each league compete in best-of-seven series for the league championships, and the league champions meet in the best-of-seven World Series.[83]

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[82] Notice at 1495.

[83] MLB Comments at 4. Recently, MLB reached an agreement with ABC and NBC that will change the post-season structure beginning in 1994 so as to add an additional round of playoffs. These "wild card" playoff games, which will all be shown on broadcast television, reportedly could add up to 20 games to the post-season schedule. The new agreement will also eliminate national coverage of the American and National League Championship Series. These games will instead be aired on a regional basis. See Wall Street Journal, May 10, 1993, at B1. Press reports indicate that the MLB owners have ratified this agreement. In Section VII, infra, we seek further information on the new MLB national broadcasting contract and its predicted effect on

37. This season, 16 regular season Saturday afternoon games, the All-Star Game, and all post-season games will be broadcast nationally on CBS. MLB notes that in 1980, NBC and ABC combined to present 42 national broadcasts of regular season games.[84] ESPN will telecast additional regular season games. MLB notes that the national cablecasting of baseball originated in 1980, when the USA Network presented approximately 40 baseball telecasts during 1980, 1981, 1982 and 1983. From 1983 through 1989, there were no national cable telecasts of baseball games, and in 1989 baseball entered into an agreement with ESPN. MLB submits that ESPN has provided more than 150 games per year during 1990, 1991 and 1992, and has presented a number of updates and other baseball related features each season. MLB also asserts that ESPN has presented a daily program devoted exclusively to reporting baseball events.[85] In addition, regular season games are available nationally via superstations.[86]

38. With respect to local telecasts, each MLB team arranges to televise a portion of its regular season games locally on a broadcast station. Typically, the team licenses telecasting rights to this "flagship" station, although some teams purchase time on the flagship station and arrange for the production of telecasts themselves. MLB submits that in 1993, teams will present 1,705 local broadcasts, an average of 65 games per team.[87] Further, MLB notes that many teams and their flagship stations have established regional broadcast networks that rebroadcast the flagship station's games. In 1992, 20 of the 24 U.S. teams had regional networks, consisting of 185 broadcast stations in addition to the teams' flagship stations. By comparison, 110 broadcast stations were involved in regional baseball networks in 1979.[88]

39. MLB notes that while the Cubs and the Braves televise a number of home games over their flagships, which are also superstations, the remaining 24 U.S. teams will broadcast, on average, only 12 of their 81 home games in 1993, so as not to interfere with home gate receipts.[89] Accordingly, during the 1993 season, 20 of the 26 U.S. teams will present a total of 1,206 games

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regular season and post-season MLB telecasts.

[84] MLB Comments at 15-16.

[85] Id. at 20-22. The contract between MLB and ESPN is currently being renegotiated. It appears that ESPN may air fewer games in future seasons. We request further information about ESPN's plans in Section VII, infra.

[86] Id. at 5.

[87] Id. at 3, 6-7.

[88] MLB Comments at 11-12.

[89] Id. at 7-8.

over regional cable sports networks, many of them home games.[90] MLB submits that as of September, 1992, there were nearly 37 regional cable networks available to approximately 40 million subscribers. MLB asserts that approximately 59 percent of cable systems offer such networks as part of a basic tier, 32 percent offer then on expanded basic and the remaining 9 percent offer them as premium channels.[91]

40. MLB contends that there has been no migration of professional baseball from broadcast television to cable. MLB asserts that as a result of declining ratings for national MLB telecasts, the broadcast networks have concluded that it has become economically less viable to maintain historic levels of national baseball telecasting.[92] However, MLB contends, local MLB broadcasts have increased since 1980. MLB submits that the 24 U.S. teams that operated in 1980 will present 1,584 flagship broadcasts in 1993, as compared with 1,392 in 1980. It also submits that each team will broadcast an average of 40 percent of its games in 1993, as compared with 36 percent in 1980. MLB asserts that local over-the-air telecasts lead to widespread exposure and fan support, which is a critical element in promoting attendance. Nonetheless, MLB contends that stations affiliated with a national broadcast network generally have less interest in televising baseball because of their commitments to televise network programming.[93]

41. INTV submits that migration of MLB games has occurred and will continue. INTV contends that in 1990, the number of nationally televised regular season games dropped from approximately 40 games to 16, and that network broadcasting of MLB games remains at this level.[94] Further, INTV submits, pursuant to ESPN's contract, all teams are prohibited from permitting off-air broadcast of any game on Wednesday nights, which it argues had been the most popular night for baseball broadcasts. It notes that the exclusivity provision only applies to broadcast stations, so that Wednesday night games may be shown on pay cable channels. It also expresses concern

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[90] Id. at 18.

[91] Id. at 17-19.

[92] Id. at 15-16. MLB submits that ratings for Saturday afternoon games broadcast on NBC from 1983 through 1989 fell from a high of 6.1 in 1984 to 5.0 in 1989. It asserts that ABC's broadcast of prime time games achieved a 10.0 rating in 1984, which declined to an 8.1 rating in 1988. MLB further notes that in 1990, the initial year of the CBS contract, average ratings for Saturday afternoon games were 4.7; it submits that the average rating fell to 3.4 in 1992. MLB also asserts that post-season broadcast ratings have declined, but notes that ratings for the World Series have remained fairly steady. Id. at 16 nn.8-9.

[93] Id. at 6-8.

[94] INTV Comments at 17-19.

that ESPN will attempt to obtain exclusivity on other nights.[95] In addition, INTV submits that the development of local cable sports channels has been instrumental in reducing the broadcast schedules of particular teams, some by as many as 50 games.[96] INTV notes, for example, that 60 games were shown on broadcast TV in Milwaukee in 1983. Upon creation of a cable sports channel in 1984, the number of games declined to 38. Since that time, no cable channel rights have been sold and the number of broadcast games has increased to 65. INTV similarly contends that broadcast TV showings have increased in Kansas City, Seattle and St. Louis, markets with no cable sports channels.[97]

42. Similarly, the New York City Department of Telecommunications and Energy contends that a number of Yankees and Mets games are now shown on regional cable networks.[98] Indeed, the arrangement between the New York Yankees and WPIX appears to be one of the most contentious arrangements regarding local baseball telecasts. MLB notes that in 1980, the Yankees broadcast 100 games over WPIX and that in 1993, they will broadcast 50 games over WPIX. It contends that the Yankees are an exception to the general rule that baseball teams have maintained or increased their flagship telecasts during the past decade.[99] MSG Corporation submits that in 1988, MSG Network was given the rights for all Yankee games for 12 years and that it subsequently reached an agreement with WPIX whereby WPIX was permitted to telecast 55 games in 1991 and 50 games in 1992 and 1993.[100] Tribune, which owns WPIX, submits that broadcast television could not support a deal of the financial magnitude of the MSG/Yankees arrangement.[101]

43. On the other hand, a number of commenters agree with MLB that migration of baseball from broadcast to cable is not a concern. For example, ESPN submits that its contract with MLB has limited exclusivity provisions applicable only on Wednesday nights and does not diminish local broadcast coverage. It asserts that the number of local over-the-air telecasts reached an all-time high in 1991 (1,674 games) and will exceed that in 1993 (1,691, not accounting for the new expansion teams).[102] MLB concurs that ESPN's Wednesday exclusivity, which prohibits teams from authorizing over-the-air broadcasts after 4:05 pm, has not affected the number of over-the-air broadcasts of baseball games. MLB further disputes INTV's argument that

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[95] Id. at 19-20; see also ESPN Reply at 28-30.

[96] Id. at 21-25.

[97] INTV Reply at 31-34.

[98] NYC Comments at 5.

[99] MLB Comments at 9-10.

[100] MSG Comments at 12-14.

[101] Tribune Reply at 2-3.

[102] ESPN Comments at 8-9.

Wednesday had been the most popular night for baseball broadcasts, and contends that more broadcasts were presented on Friday and Tuesday.[103] NCTA argues that ESPN's entry into baseball has benefitted consumers by bringing more games at more times to national TV and by offering coverage to teams and parks that might not otherwise receive wide national exposure. NCTA also contends that local broadcast coverage of baseball has increased by 11.5 percent in the past five years, and that the games shown on cable tend to be home games, which would typically be unavailable to local broadcasters.[104]

44. There has been a pronounced decline in the number of regular season baseball games broadcast nationally since 1980, as INTV suggests. It does not appear, however, that this decline is the result of migration to cable. Rather, as a number of commenters argue, the networks' decision to broadcast fewer games seems to be based on declining ratings. Chart 7 of Appendix C shows that from 1980 through 1990, when ABC and NBC had the rights to broadcast MLB games nationally, the networks broadcast between 46 and 68 regular season games. Average ratings for those games declined from a high of 8.7 in 1982 to a low of 5.6 in 1989. CBS broadcast 16 regular season games per year in 1990, 1991 and 1992 with lower ratings each year, ultimately reaching a low of 3.4 in 1992. On the local level, Chart 8 shows that while the number of MLB games shown on local cable channels has increased threefold, the number of games shown on broadcast television has remained fairly steady — 1,654 games were broadcast locally in 1980 as well as 1992. This appears to support the argument of several commenters that the majority of games shown on local cable television are games that were not previously broadcast. Nonetheless, while an overview of MLB telecasting practices does not suggest wholesale migration, the record shows some instances of migration at the local level — for example, the New York Yankees' shifting of some games to MSG Network. The Commission will continue to closely monitor these situations.

E. Professional Hockey

45. In addition to the general information sought in the Notice, we requested information regarding the television packages of the Minnesota North Stars, Chicago Blackhawks and Pittsburgh Penguins. We also inquired as to the reasons for the lack of national NHL coverage.[105]

46. NHL submits that it consists of 24 teams, 16 in the U.S. and 8 in Canada. The league is divided into the Wales Conference (Adams and Patrick Divisions) and the Campbell Conference (Norris and Smythe Divisions). In the 1992-93 season, each team played 84 regular season games, 41 at home, 41 away and two in a non-NHL city. From 1981-82 through the present, the top four teams in each division have earned playoff berths. In each division, the first place team plays against the fourth place team and the second place

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[103] MLB Comments at 8, 9 n.7, 22-23.

[104] NCTA Comments at 15-16.

[105] Notice at 1495.

team against the third place team in the Division Semi-Finals, which has been a best-of-seven series since 1986-87. The two winners then play in the Division Finals, a best-of-seven series. The two winners in each conference then play in a best-of-seven Conference Final. The two conference winners then compete for the Stanley Cup.[106]

47. NHL submits that professional hockey is currently distributed through local broadcasts and cablecasts, superstation telecasts, national network cablecasts and pay services. The NHL has not had a national broadcast network TV contract in over a decade, although the All-Star game has been carried by NBC for the last four years. NHL submits that its lack of national network coverage is not at the league's volition, and that the networks dropped hockey in 1976 citing poor ratings. This year, a package of five NHL playoff games will appear on network television (ABC). NHL asserts that the inability to gain broadcast exposure has forced both the league and its teams to seek alternative distributors. NHL recently entered into an agreement with ESPN for five seasons (including 1992-93) whereby ESPN will telecast 25 to 27 regular season games on its primary channel, plus an agreed upon number of additional specially selected games, an undetermined number of games from playoff rounds one and two, and all Conference Championship and Stanley Cup Final games. A limited number of playoff games will also be broadcast on network TV in each of the five seasons.[107]

48. Individual teams license local telecasts, while the NHL licenses all national telecasts. Current NHL rules permit each team to telecast its games within a 50 mile radius of the municipality in which it plays. If there are fewer than 2,300,000 total households within that radius, the team may telecast beyond that radius as necessary to reach 2,300,000. No team may broadcast into another team's home territory when that other team is playing at home. Further, NHL rules provide that when a game is nationally cablecast, the home territories of both teams shall be blacked out on that national cablecast, although the competing teams may distribute the game in their respective markets.[108]

49. NHL argues that other than in New York and Hartford, where the team's flagship station went off the air, the number of regular season games broadcast in 1992-93 exceeded that of 1981-82.[109] With respect to the specific teams mentioned in the Notice, NHL submits that none of the pay packages of the Minnesota North Stars, the Chicago Blackhawks or the Pittsburgh Penguins constitute migration. While the Minnesota North Stars

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[106] NHL Comments at 9-11.

[107] Id. at 5, 12, 16.

[108] Id. at 11-13. NHL further submits that in recent years, national and local broadcast revenues have accounted for less than six percent of NHL revenues and that 18 percent of revenues come from non-broadcast media sources such as cable. Id. at 18.

[109] NHL Reply at 7.

made the NHL playoffs in 1989-90, 1988-89 and 1985-86, they did not advance beyond the first round until the 1990-91 season. NHL asserts that none of the North Stars' regular season home games were shown on over-the-air television in 1990-91, so home playoff games could not be said to have migrated to pay television later that year, as is argued by some commenters. Moreover, NHL notes, home games were likewise not shown over-the-air in the other years that the North Stars made the playoffs, and all away playoff games were shown locally on broadcast television in 1986, 1989, 1990 and 1991. NHL contends that the parties attempted to reach an agreement to put the home playoff games on broadcast TV in 1991 but were unable to come to terms.[110]

50. Further, NHL notes that in 1992, the Chicago Blackhawks telecast their home playoff games on SportsChannel Chicago. NHL submits that because home playoff games had not been cablecast in the previous seven years and had not been broadcast over the air in 12 years, their appearance on pay television in 1992 does not constitute migration.[111] NHL also asserts that the six regular season Penguins games shown on pay television in 1992-93 would otherwise not have been telecast because they were home games.[112] The charts appended to the NHL comments show that no Penguins home games had previously been telecast over-the-air or on local cable during the years in question (i.e., 1980-present).

51. INTV and the New York City Department of Telecommunications and Energy contend that there has been significant migration of hockey from broadcast to cable television. INTV asserts that according to NAB's 1990 sports survey, the number of games appearing on broadcast television declined 7.4 percent from 1986 to 1989 and the number of games appearing on local and regional cable channels increased 29.3 percent.[113] In addition, NYC notes that many regular season games of the New York Knicks and the New York Rangers have been shown exclusively on the Madison Square Garden Network since the network's inception in 1969.[114]

52. Other commenters, however, argue that broadcasters are not interested in professional hockey and that cable offers the NHL visibility that would not otherwise be provided via broadcast television. For example, ESPN submits that it has provided hockey with substantial national exposure, and notes that it has purchased time on ABC to distribute five Stanley Cup

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110 NHL Comments at 14-15; NHL Reply at 7-8.

111 Id. at 15.

112 Id. at 16.

113 INTV Comments at 25-26.

114 NYC Comments at 3-4.

playoff games this year.[115] NCTA similarly asserts that cable provides access to NHL games that have been long ignored by the broadcast networks.[116] Time Warner agrees that professional hockey is often not carried on broadcast television, and suggests that the lack of coverage is due to the proliferation of sports events during the fall and winter months.[117] ARC contends that viewer interest in hockey and, consequently, the interest of local broadcasters in carrying hockey, vary widely among different regions. ARC asserts, for instance, that the Tampa Lightning could not reach a rights agreement with any local broadcaster and instead made an arrangement with an ARC affiliated cable sports network.[118] Madison Square Garden Corp. contends that WWOR's interest in the Rangers diminished in the mid-1980s due to low ratings and that since WPIX was also not interested, Madison Square Garden Corp. picked up the additional Rangers games.[119] Tribune concedes that MSG offered its affiliate, WPIX, the rights to telecast Rangers and Knicks games as a package, and asserts that WPIX declined because it was only interested in Knicks games.[120]

53. The record shows that professional hockey has not been broadcast on national television since before 1980, the starting point of our survey, except that the All-Star Game has been broadcast on NBC since 1990 and a few playoff games were televised on ABC this year.[121] It therefore cannot be said that hockey has migrated from broadcast to cable on the national level. Indeed, it is questionable whether NHL games would have a national outlet absent the growth of cable television. Chart 9 of Appendix C details national cable telecasts of NHL games since 1980. With respect to local telecasts, Chart 10 shows a 14 percent decline in games broadcast between 1981-82 and 1992-93; 324 games were broadcast in 1981-82 and 279 were broadcast in 1992-93. It is unclear from the record whether this decline of 45 games is due to the expansion of national and local NHL cablecasts or is

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[115] ESPN Comments at 9. Those five games were broadcast live on Sunday afternoons, beginning April 18, 1993, and ending May 16, 1993. The first three weeks consisted of regional coverage of various games and the fourth and fifth weeks each consisted of a single national game. See NHL May 24, 1993, Supplemental Comments at 3-4.

[116] NCTA Comments at 5.

[117] Time Warner Comments at 14-20.

[118] ARC Comments at 7. ARC notes that the Lightning required that the cable sports network arrange to have at least 10 Lightning away games aired on broadcast television. Id. at 8.

[119] MSG Comments at 5-10.

[120] Tribune Comments at 4-5.

[121] NHL indicates that data regarding national broadcasts are not available for the 1980-81, 1981-82 and 1982-83 seasons. It is therefore possible that additional games were broadcast nationally during those years.

entirely attributable to low ratings; local ratings data would be helpful. In any event, we do not consider this slight decline a cause for concern. Another factor that may contribute to the lack of national NHL exposure and the decline in the number of local NHL broadcasts is the fact that hockey is played at the same time as far more popular sports. As such, NHL games appear to have difficulty competing for audience with professional football, professional basketball, college football, college basketball and other events occuring during the fall and winter months.

F. College Sports

1. In general

54. The Notice requested data regarding the video distribution of college football and basketball since 1980. Specifically, the Notice sought information regarding scheduling, live versus tape-delayed telecasts, ratings, contract terms, conference objectives, television revenues and gate receipts.[122] In general, most collegiate commenters assert that cable television coverage of collegiate athletics has not led to a decrease in broadcast coverage. Rather, they argue, cable has expanded the number and variety of collegiate events available to the public and in many cases events have been cablecast that would not otherwise have been shown on broadcast television.[123] For example, the University of Pittsburgh submits that since ESPN has begun televising college football, its team has made 22 national appearances that would probably have not otherwise been telecast nationally. The University of Pittsburgh further notes that its basketball team has averaged four to five live appearances per year on ESPN since 1982, and that its contract with a regional cable sports channel calls for the live telecasting of 18 to 20 men's basketball games per year and four other varsity sports events of the University's choosing.[124] ECU similarly argues that the popularity of college basketball has increased due to ESPN exposure.[125]

55. With respect to revenues, NCAA submits that 1989 ticket sales for Division I institutions with football programs represented approximately 35 percent of athletic department revenues, and that revenues from bowls, tournaments and television represented 14 percent of athletic department revenues. NCAA asserts that television revenues represented a smaller proportion of revenues for Division I institutions without football and for institutions in other Divisions. NCAA believes that there is some

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[122] Notice at 1495-96.

[123] See, e.g., ACC Comments at 1; BYU Reply at 1; CAA Comments at 1-3; CAC Comments at 1-3; Colorado State Comments at 1-3; Southland Conference Comments at 1-3; Southwest Conference Comments at 2; University of Denver Comments at 2-3; UIL Comments at 2; University of Pittsburgh Comments at 1-2.

[124] University of Pittsburgh Comments at 1-2.

[125] ECU Reply at 1.

relationship between broadcast exposure and gate receipts, but contends that gate receipts are more affected by the win/loss record of the team.[126] NCAA further submits that the Commission's assumption that sports entities seek to maximize their overall net revenues is more directly applicable to professional sports, and asserts that the primary concern of college athletics is often with the publicity that results from media carriage of events.[127] BYU estimates that approximately 17 percent of its athletic department revenue is generated by the sale of broadcast rights, and ECU submits that television coverage of its games has not reduced gate receipts.[128] The University of Pittsburgh anticipates that for the 1993-94 season, approximately 27 percent of its Athletic Department revenue will come from the sale of broadcast or other media distribution rights. It also states that football gate receipts will account for approximately 25 percent of the department's income, while basketball gate receipts will be about 10 percent of the total.[129]

2. College football

56. The promotion and regulation of college football is primarily governed by the NCAA. NCAA institutions sponsor approximately 600 football teams, classified as Division I-A, I-AA, II or III. NCAA submits that there are 107 Division I-A institutions, 88 Division I-AA institutions, 129 Division II institutions and 229 Division III institutions. The NCAA football schedule typically includes 11 games held on Saturdays from early September through late November or early December. Generally, home and away games are divided evenly during the regular season and neutral sites are used for the final round of competition. For Division I-A football, post-season play consists of 18 bowl games coordinated by a coalition of 5 conferences, 4 bowls and one additional university. NCAA does not sponsor a Division I-A football championship. For Divisions I-AA, II and III, the NCAA sponsors national championships whereby 16 conference champions in each Division participate in single-elimination tournaments.[130]

57. NCAA has no involvement in the television contracts for regular season football games. Rights to in-season intercollegiate athletic events are marketed by individual institutions, conferences and other consortia.[131]

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[126] NCAA Comments at 15-18.

[127] Id. at 4-5.

[128] Brigham Young University Reply at 1; ECU Reply at 1.

[129] University of Pittsburgh Comments at 1-2.

[130] NCAA Comments at 8-12.

[131] Id. at 3 n.3. Rights to bowl games are marketed by bowl committees, although NCAA certifies bowl games as conforming to the conditions established by NCAA members. Id. NCAA submits that nine of this past season's bowl games were carried on national broadcast networks and eight

The College Football Association is one such consortium. CFA, which acts as a program packager for 67 universities, consists of seven constituent groups involving six conferences and other schools that do not belong to a conference.[132] Each constituent group appoints a representative to serve on the CFA Television Committee, which drafts a voluntary Television Plan. The current CFA Television Plan provides that ABC and ESPN have a right of first refusal for games played by CFA members. The CFA contracts with ABC and ESPN cover the 1991 through 1995 seasons. CFA will receive $300 million — $175 million from ABC and $125 million from ESPN. CFA estimates that in 1993, ABC will televise 35 games and ESPN will televise 27 games. ABC is permitted to televise a minimum of 25 and a maximum of 35 games each season, and ESPN has the right to televise 27 or 28 games per season. There are no home blackout restrictions in either contract.[133]

58. Rights to games not selected by either ABC or ESPN revert back to the institution. CFA member institutions are permitted to televise their games without geographical restriction provided that the games begin not later than 12:10 PM local time (with the exception that such games may not be sold to CBS, NBC or Fox Network). In addition to the opportunity to telecast games live, CFA members may show their games on a delayed basis on Saturdays beginning at 11 PM EST. CFA members may also arrange to telecast games on a point-to-point basis serving the home markets of the participating teams, and on pay-per-view or closed circuit at other times during the day, including those time periods when ABC or ESPN may be televising games from the CFA package. CFA submits that four conferences have arranged for a televised package in cooperation with syndicators -- the Atlantic Coast Conference, Big East Conference, Southeastern Conference and Southwest Conference, and that a number of individual CFA members have made arrangements to telecast games on a local or regional basis.[134]

59. Unlike their arguments regarding other sports, commenters that take issue with the current distribution of college football games do not contend that games previously broadcast have migrated to cable. Rather, commenters' primary argument with respect to migration of college football telecasts is that preclusive contracts severely limit the number of college football games broadcast by local over-the-air television stations.[135] These preclusive contract issues are discussed in detail in Section IV, infra.

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were carried on cable sports networks. Id. at 12.

[132] The CFA membership list appended to the CFA Comments identifies the six member conferences as the Atlantic Coast Conference, the Big East Conference, the Big Eight Conference, the Southeastern Conference, the Southwest Conference and the Western Athletic Conference.

[133] CFA Comments at 1-2.

[134] Id. at 2-3.

[135] See, e.g., INTV Comments at 6-17; INTV Reply at 9-24; see generally, Pappas Reply.

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

FCC 93-333

In the Matter of	)	
	)	
Implementation of Section 26 of the Cable Television Consumer Protection and Competition Act of 1992	)	PP Docket No. 93-21
	)	
Inquiry into Sports Programming Migration	)	

INTERIM REPORT

Adopted: June 24, 1993; Released: July 1, 1993

By the Commission:

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I. INTRODUCTION

1. This Interim Report is issued pursuant to Section 26 of the Cable Act of 1992, which directs the Commission to "conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services" and to issue reports to Congress on or before July 1, 1993, and July 1, 1994.[1] On February 9, 1993, the Commission released its Notice of Inquiry in this proceeding.[2] The Notice sought information and comment on a number of issues regarding the movement of sports programming from broadcast to cable television, including the causes and consequences of migration, as well as trends with respect to particular sports. Pursuant to Section 26(c) of the Act, the Notice also asked a number of questions regarding preclusive contracts between college athletic conferences and video programming vendors.

2. The majority of parties commenting in this proceeding, including cable programmers and sports entities, contend, in general, that sports programming has not migrated from broadcast to cable television, and argue that there is currently more sports programming on broadcast television than ever before. Some commenters, however, most notably the Association of Independent Television Stations (INTV), assert that the trend in distribution of sports programming has been away from broadcast television, particularly at the local level. They submit that this is detrimental to independent broadcast stations as well as the more than 40 percent of the national population that does not subscribe to cable. INTV and others submit that taxpayers have helped finance professional sports teams through tax advantages and the construction of new stadiums and other infrastructure, that sports teams enjoy special status under the antitrust laws, and that there is significant public involvement in college funding. As a result, they argue, taxpayers should be entitled to enjoy professional and collegiate sports on free, over-the-air television. These commenters are concerned that cable television's dual revenue streams (i.e., advertising and subscription revenues) will enable it to consistently outbid broadcasters, who are supported by a single revenue stream (i.e., advertising revenues), for sports programming.

3. The purpose of this Interim Report is to compile, and where appropriate to analyze, the data submitted by commenters, so as to give Congress and other interested parties a cohesive picture of trends in sports programming distribution over the past decade. We believe that the information detailed herein will help Congress and the Commission to determine whether any legislative or regulatory action is currently necessary or may become necessary in the future. We also believe, however, that it would be premature to make specific recommendations to Congress in this

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[1] The text of Section 26 of the 1992 Cable Act is set forth in Appendix A.

[2] Notice of Inquiry in PP Docket No. 93-21, 8 FCC Rcd 1492 (1993) (Notice).

Interim Report. While the record in this proceeding has provided us with a workable preliminary review of how video sports programming is distributed, the information we have received raises further questions. We therefore will point out areas of potential concern that we intend to explore in greater detail in our forthcoming Further Notice of Inquiry and ultimately in our Final Report, to be issued on or before July 1, 1994.

4. The structure of this Interim Report is similar to the organization of the Notice. First, we will discuss commenters' suggestions regarding the scope of our inquiry and our proposed method for measuring migration. Next, we will detail our findings as to how sports programming is currently distributed, with individual emphasis on four professional and two college sports. We will then examine the existence and prevalence of preclusive contracts in collegiate athletics, particularly college football. We next address commenters' predictions regarding the future of sports programming and their ultimate recommendations with respect to this proceeding. Finally, we will discuss what additional data we may need to obtain in anticipation of our Final Report.

II. SCOPE OF THE COMMISSION'S INQUIRY

A. Sports Included and Time Period Covered

5. In the Notice, the Commission proposed to focus its inquiry on professional football, basketball, baseball and hockey, and on college football and basketball because these sports have had significant broadcast and non-broadcast exposure.[3] Commenters tend to emphasize these sports in their submissions, although they offer data for other sports as well (see Section III-G, infra). While the Notice also requested comment on distribution of the Olympic Games, few commenters specifically address this issue. The Notice additionally proposed that the inquiry cover sports programming since 1980, a point in time when superstations and cable networks were operational but had not yet reached the level of subscribership they enjoy today.[4] No commenter objects to this proposed starting point, although NCAA notes that 1984 represented a turning point in the telecasting of college athletics due to NCAA v. University of Oklahoma, 468 U.S. 85 (1984), whereby the U.S. Supreme Court invalidated the NCAA's agreements to implement its joint marketing plan for NCAA members.[5] In light of the foregoing, we will measure sports migration with reference to broadcasts of the sports mentioned above from 1980 to the present, keeping in mind that the distribution of college football went through a change in 1984.

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[3] Notice at 1493.

[4] Id.

[5] NCAA Comments at 2-4.

B. Characterization of Superstations

6. The Notice also inquired as to the proper classification of superstations for purposes of this study.[6] As pointed out in the Notice, a superstation is an independent broadcast station that is retransmitted by satellite.[7] Therefore, while a superstation might be considered a local broadcast station within its broadcast coverage area, it might be considered a cable service outside of its broadcast area. MLB, NBA and NHL contend that superstations should be considered local broadcast stations within their local market areas and national cable networks outside of those areas.[8] Tribune, Turner and United Video argue that superstations should be viewed as local media. Tribune asserts that superstation broadcasts are directed at the hometown fan of the local team and that the advertisers attracted to these telecasts predominantly seek to target local viewers.[9] Turner argues that like all broadcast stations, a superstation must serve the needs of its local community in order to maintain its broadcast license.[10] United Video notes the differences between superstations and local cable sports networks, arguing that superstations are typically accessible to consumers at more reasonable prices, that sports programming is only a small part of a superstation's total schedule, that superstations are subject to blackouts while sports networks are not,[11] and that superstations offer no local advertising outside of their local markets.[12]

7. For purposes of calculating the degree of sports migration in a particular area, we will treat superstations as local broadcast stations within their local markets and as national cable networks outside of their local markets. We consider superstations comparable to basic cable networks that do not predominantly carry sports programming, such as TNT and USA Network. We therefore intend to group distant superstations, national basic cable networks and national and regional sports networks as cable programmers when measuring sports migration. We recognize, however, that there are differences between superstations and cable sports channels, as United Video points out. We will therefore attempt to distinguish between particular cable programmers where sufficient data are available.

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[6] Notice at 1493.

[7] Id. at n.13.

[8] MLB Comments at 13; NBA Comments at 6; NHL Comments at 7.

[9] Tribune Comments at 2-4.

[10] Turner Comments at 12-13.

[11] The Commission's sports blackout rules require cable systems within 35 miles of collegiate of professional games to refrain from showing home games carried by a superstation if the game is not available on any broadcast station in the local area. See 47 C.F.R. Sections 76.67, 76.5(e).

[12] United Video Comments at 3-7.

C. Measurement of Migration

8. In the Notice, we defined sports migration as the movement of sports programming from broadcast television to a subscription medium.[13] We noted that it is easy to measure migration of major post-season events such as the World Series, the Stanley Cup Finals, the Super Bowl, the NBA Championships, college football bowl games, or the NCAA Final Four, because the character of such events has remained relatively constant over the years. With respect to regular season games, however, the Notice pointed out that schedule changes from year to year and variations in the strength of teams make migration of regular season games more difficult to measure. To account for the differences between regular season and post-season games, the Notice proposed to measure migration by comparing regular season games exhibited on broadcast and non-broadcast media each year and by making a separate comparison for post-season games. While we indicated in the Notice that we believed the number of games in each category to be the proper comparison, we sought comment on whether we should instead measure migration with reference to audience ratings or other criteria.[14]

9. Commenters offer several suggestions regarding the appropriate way to measure sports migration. NCAA supports a comparison of numbers of games rather than ratings, particularly in light of the significant extent to which sports programming is viewed outside the home.[15] NHL also discourages use of audience ratings, contending that annual average audience ratings are often unavailable at the local level and that audience fragmentation has generally driven ratings down.[16] NBA, on the other hand, suggests that we consider the number of viewers to whom programming is made available or the number of viewers who actually watched the programming.[17] Rather than a strict numerical comparison, Daniel Scott Dunham suggests that the Commission compare the percentage of games on broadcast TV with the percentage of games on subscription media.[18] NFL submits that the Commission should look to whether programming that was otherwise available on broadcast television has moved to a non-broadcast medium, and whether consumers have access to fewer games on broadcast television as a result. NFL would also include information regarding the willingness of broadcasters to purchase the rights to sports programming, arguing that "[i]f television rights are sold to basic cable networks because they cannot be sold at a reasonable price to

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[13] Notice at 1492.

[14] Id. at 1494.

[15] NCAA Comments at 4.

[16] NHL Comments at 7-8.

[17] NBA Comments at 5.

[18] Daniel Scott Dunham Comments at 1-4.

broadcasters, that cannot properly be considered 'migration.'"[19] NBC urges us to focus on post-season games and asserts that post-season games are more consistent than regular season games in quantity and in viewer demand from year to year.[20]

10. In addition, Time Warner submits that because the level of viewer interest for a given telecast varies substantially among local, regional and national audiences, the Commission should treat local, regional and national sports programming separately. It also contends that the Commission should distinguish between post-season and championship games, and that the Commission should break down games by audience type (i.e., home, away, neutral). Time Warner further urges the Commission to consider qualitative differences in coverage, such as frequency of commercial interruption, pre-game and post-game shows, or production quality.[21] Time Warner also asserts that the programming strategies of the major professional sports are a product of a number of factors, including their internal organization, the importance of gate receipts as a source of revenue, labor pressures, the legal environment, and their local, regional and national popularity.[22]

11. While the optimal method of measuring sports migration would be, as Andrew Zimbalist suggests, a comparison of the number of games and viewership of events actually shown on broadcast television with the projected number of games and projected viewership of events that would be broadcast absent the existence of non-broadcast video distributors,[23] such projections are too speculative to form the basis for this study. To achieve the best measurement practicable given existing data, we will combine the several approaches suggested by the commenters. Accordingly, we will consider both the number of games shown on broadcast and cable television since 1980 and the ratings of those telecasts,[24] if such data are available. We will consider national and local telecasts separately, and we will differentiate between regular season and post-season games. We will indicate the total number of games played each season to provide more accurate year-to-year comparisons. To the extent we have data for championship games such as the Super Bowl or the World Series separate from other post-season games, we will so specify. We will also take note if a particular event previously shown on broadcast television is now shown on cable television. We will acknowledge

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[19] NFL Comments at 4-5.

[20] NBC Comments at 3-6.

[21] Time Warner Comments at 28-33.

[22] Id. at 7-9.

[23] See Andrew Zimbalist Comments at 1.

[24] For purposes of this Interim Report, the word "telecast" will refer to both broadcast and non-broadcast exhibition of programming.

other relevant factors suggested by commenters as appropriate.[25]

III. SUMMARY OF FINDINGS REGARDING THE CURRENT DISTRIBUTION OF SPORTS PROGRAMMING

A. Migration of Sports Programming in General

12. In the Notice, we requested that commenters provide examples of migration that had already occurred. We also requested specific data from 1980 through the present regarding the four professional and two college sports that are the focus of our study.[26] In addition, the Notice sought comment regarding the causes and consequences of sports migration, both economic and social.[27] The Notice also requested information on the impact of superstation telecasts of sports events.[28] In addition, the Notice sought information regarding the availability of superstations, ESPN and other national cable networks offering significant sports programming, such as TNT and BET, and inquired as to the growth of regional sports networks, both broadcast and cable, and pay-per-view services.[29] Data regarding these latter issues are included in Appendix C, Chart 1.

13. General comments. Most commenters contend that there has been no significant migration of sports programming from broadcast television to subscription media. They argue that cable carriage of sports has not decreased the number of sports events shown on broadcast television, but rather has supplemented broadcast television so as to increase the quantity and diversity of sports events available to the viewing public.[30] For example, NBC and NCTA cite last year's Olympics Triplecast as an example of how cable television can enhance coverage of an event without compromising

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[25] We note that Tribune believes that the Notice went beyond the statute by inquiring into contractual and territorial arrangements, gate receipts, licensing, superstation growth and other issues. Tribune Comments at 2. We believe that the information requested is necessary to fulfill our Congressional mandate to "investigate and analyze" trends in the migration of sports programming, "including the economic causes and the economic and social consequences of such trends." 1992 Cable Act, Section 26(a).

[26] Notice at 1494-95.

[27] Id. at 1496.

[28] Notice at 1493.

[29] Id.

[30] See, e.g., ARC Comments at 4; CapCities/ABC Comments at 3; ESPN Comments at 5-6; MLB Comments at 3; NBA Comments at 1-3; NBC Comments at 1-3; NHL Comments at 19-20; NCTA Comments at 2-5; Time Warner Reply at 2-5.

the coverage provided by broadcast television.[31] A number of commenters submit that cable carriage has been particularly beneficial to collegiate athletics and other amateur sports by telecasting events that would not otherwise be shown.[32] Moreover, these commenters contend, broadcast stations remain a primary outlet, if not the preferred medium, for distribution of sports programming.[33] For example, ESPN notes that all the major professional sports championships, the major college bowl games, the NCAA basketball championships, and almost all major golf and tennis tournaments remain on the broadcast networks.[34]

14. On the other hand, INTV and Pappas contend that sports migration, particularly migration of regular season games, has become a significant problem for independent broadcast stations.[35] Similarly, CBS submits that migration is underway in some local markets. For example, CBS asserts that for the current season, none of the New York area's three hockey teams will have any local broadcast coverage, and only a limited number of the regular season games of the area's two basketball teams and two baseball teams will appear on local broadcast television.[36] NAB also expresses its concerns regarding sports migration. It cites a Congressional letter stating that only community pressure saved seven Philadelphia 76ers games for broadcast television while the other games will be offered by a cable sports network. The letter also asserts that the Minnesota North Stars and University of Tennessee football are available only on pay-per-view, and that some Pac-10 games and most Yankee games have moved to cable.[37]

15. Causes. With respect to the possible causes of sports migration, several commenters, challenging the assertion that significant sports migration has taken place, submit that any migration that may have occurred is due to the indifference of broadcast television.[38] For example, Time

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[31] NBC Comments at 6-7; NCTA Comments at 12-13.

[32] See, e.g., ACC Comments at 1; ARC Reply at 9-12; CAA Comments at 1-3; CAC Comments at 1-3; Colorado State Comments at 1-2; NCAA Comments at 16; Southland Conference Comments at 1-3; Southwest Conference Comments at 2; Texas Special Olympics Comments at 2; University of Denver Comments at 2-3; UIL Comments at 2.

[33] See, e.g., ARC Comments at 4; ESPN Comments at 6-7; NBA Comments at 17-18; NCTA Comments at 14; NCTA Reply at 3-4; Rainbow Comments at 5-7.

[34] ESPN Comments at 6-7.

[35] See generally, INTV Comments, INTV Reply, Pappas Reply.

[36] CBS Reply at 3-5.

[37] NAB Comments at 2.

[38] See, e.g., Madison Square Garden Comments at 2-4; NCTA Comments at 8-13; Rainbow Comments at 9-10, 14-18; Time Warner Comments at 36-37.