

DOCKET FILE COPY ORIGINAL



ESPN, INC.
ESPN PLAZA, BRISTOL, CT 06010
(860) 585-2000

RECEIVED

JUN 16 1997

June 16, 1997

Federal Communications Commission
Office of Secretary

HAND DELIVERY

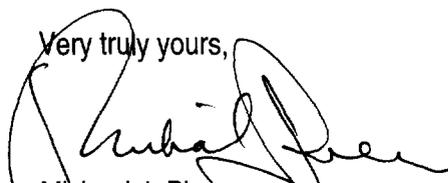
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *Reply Comments in CS Docket No. 97-80*

To the Commission:

Enclosed for filing is one original and eleven copies of the Reply Comments of ESPN, Inc. in the above captioned proceeding. Please feel free to contact me with any questions.

Very truly yours,



Michael J. Pierce
Assistant General Counsel

/sc

Enclosures

cc (w/encl.): Barrett L. Brick/Cable Services Bureau
International Transcription Services, Inc.

No. of Copies rec'd
List ABCDE

0+11

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

In re:)
)
Implementation of Section 304 of)
the Telecommunications Act of 1996)
)
Commercial Availability of)
Navigation Devices)

CS Docket No. 97-80

RECEIVED

JUN 16 1997

Federal Communications Commission
Office of Secretary

REPLY COMMENTS OF ESPN, INC.

David R. Pahl
Michael J. Pierce
ESPN, Inc.
ESPN Plaza
Bristol, Connecticut 06010-7454

June 16, 1997

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

**RECEIVED
JUN 16 1997**

*Federal Communications Commission
Office of Secretary*

In re:)
)
Implementation of Section 304 of) CS Docket No. 97-80
the Telecommunications Act of 1996)
)
Commercial Availability of)
Navigation Devices)

To the Commission:

REPLY COMMENTS OF ESPN, INC.

ESPN, Inc. ("ESPN") hereby submits these Reply Comments in response to the Commission's Notice of Proposed Rulemaking in the above captioned proceeding.¹ While ESPN does not propose to address the myriad technical, policy and economic issues raised by the various commenters in the initial round in this proceeding, we would like to address one programming related issue.²

ESPN, along with other sports programming distributors, is often required to effect a "blackout" of certain programming generally based on league concerns with event attendance or local rightsholder agreements. Blackouts are currently implemented at the headend of a particular cable system, a process which, at times, can result in a more extensive geographic blackout being implemented than is required. ESPN and other

¹ In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, CS Docket No. 97-80, FCC 97-53, Notice of Proposed Rulemaking (released February 20, 1997) ("NPRM").

² In addition, ESPN takes issue with several statements made by GTE Service Corporation ("GTE"), as discussed later in these Reply Comments.

sports programming distributors would welcome the opportunity to reach all authorized viewers through more precise geographic distribution models.

We believe that in the future blackouts may be implemented at the settop level, rather than at the headend level. This would allow sports programming distributors to distribute game telecasts to all those subscribers authorized to receive them. ESPN strongly encourages any entity or group, governmental or private, involved in setting standards related to settop equipment to recognize and address this problem. In so doing, it may be necessary to consider how geographically defined blackouts are implemented if settop boxes become truly portable. We would be willing to assist the Commission or any other interested party in analyzing these issues.

On a final note, ESPN disputes two somewhat cryptic statements contained in the comments filed by GTE ("GTE Comments"). GTE submits -- with little if any justification -- that "[r]ules promulgated to meet the requirements of Section 629 should apply to distributors and programmers equally."³ GTE does not explain how rules primarily intended to encourage the retail availability of navigation equipment would or should apply "equally" to content providers. Instead GTE relies on the somewhat circular rationale that equal application of such rules "is the only way in which sufficient leverage can be brought to bear on manufacturers of consumer electronics, facility owners, and entities creating programming."⁴

³ *GTE Comments* at p. 5 (footnote omitted). GTE further asserts that government-mandated standards should be levied on "entities that control the rights to programming." *Id.* GTE does not indicate to which entities it is referring.

⁴ *Id.* ("Such application of the rules will ensure that all content/media is created under the same set of standards.")

GTE also asks the Commission to “better balance” the security obligations between programmers and MVPDs.⁵ Again, GTE does not offer any legislative underpinnings for the Commission doing so or even begin to explain why the Commission should intervene in the heretofore unregulated contractual negotiations between programmers and distributors. GTE’s rationale appears to center on its perception that “the issue of system security is complex.”⁶ While ESPN certainly agrees with that particular assessment, we strongly disagree that the appropriate response is Commission involvement in the creation of programming. We encourage the Commission to reject GTE’s calls to become involved in setting standards for the creation of programming as well as the contractual negotiations between MVPDs and programmers. In line with our comments above, we believe these issues are best left to the marketplace.

Respectfully submitted,

ESPN, Inc.

By 

David R. Pahl

Michael J. Pierce

ESPN, Inc.
ESPN Plaza
Bristol, Connecticut 06010-7454
June 16, 1997

⁵ *Id.* at 7.

⁶ *Id.*