

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Application of Network Nonduplication, )  
Syndicated Exclusivity, and Sports )  
Blackout Rules To Satellite Retransmissions )

CS Docket No. 00-2

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To: The Commission

**REPLY COMMENTS OF THE  
NATIONAL FOOTBALL LEAGUE**

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## **SUMMARY**

The National Football League urges the Commission to apply the sports blackout rules to satellite carriers, as required by the simple and straightforward demand of the Satellite Home Viewer Improvement Act. Satellite interests plainly have failed to carry the heavy burden imposed by the Act of proving that it would be infeasible for them to apply sports blackout rules. Their failure to marshal any evidence in support of their claims of difficulty is not surprising, given that DirecTV, Echostar, and C-band satellite carriers apply sports blackouts and other related rules 365 days a year right now. Plainly, the rules should be applied to satellite carriers, as required by the Act, as expeditiously as possible.

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To: The Commission

**REPLY COMMENTS OF THE  
NATIONAL FOOTBALL LEAGUE**

These Reply Comments respond to the Comments of the satellite interests concerning the application of sports blackout rules to satellite transmissions of television programming. Notice of Proposed Rulemaking ¶¶ 24-29. As discussed below, the Comments submitted by the satellite interests ignore the rigorous standard imposed by Congress for relief from the Commission's existing sports blackout rules and instead offer only vague – and often demonstrably incorrect – assertions concerning the alleged hardships of complying with these rules. Most important, the satellite interests fail to acknowledge that both C-band and Ku-band carriers are currently administering sports blackouts in a variety of contexts with minimal burden and expense. For the reasons set forth below, as well as those articulated by the other sports interests, the Commission should apply the sports blackout rules to satellite carriers as required by the Satellite Home Viewer Improvement Act.

**I. THE SATELLITE INTERESTS HAVE NOT MET THEIR “HEAVY” BURDEN OF PROVING THAT THE APPLICATION OF SPORTS BLACKOUT RULES IS TECHNICALLY INFEASIBLE AND ECONOMICALLY PROHIBITIVE.**

As an initial matter, none of the satellite interests properly frames the issue. The question is not whether it is inconvenient to apply sports blackouts or whether satellite carriers would make more money if they could offer sports events that are not available either on

broadcast television or on cable. The question is whether application of the Commission's sports blackout rules to the satellite retransmission of network stations is "technically feasible and not economically prohibitive." Notice ¶ 27. The legislative history of the SHVIA, not acknowledged by any of the satellite interests, makes clear just how demanding this test is:

The burden of showing that conforming to rules similar to cable would be 'economically prohibitive' is a heavy one. It would entail a very serious economic threat to the health of the carrier. Without that showing, the rules should be as similar as possible to [those] applicable to cable services.

H.R. Rep. No. 106-464, 106<sup>th</sup> Cong., 1<sup>st</sup> Sess. 103 (1999).

The Comments of the satellite interests simply do not provide the evidence needed for an (unprecedented) exemption from the Commission's sports blackout rules. Unable to come forward with any such proof, the satellite interests instead make general, unsupported claims of burden. This is not enough, particularly given the nature of the prize they seek – the right to show blacked out games notwithstanding the fact that the copyrights in these telecasts are owned by others and that the games are not available locally either over-the-air or on cable. The satellite interests' default on their obligation to specify the technical and cost factors that justify this extraordinary relief should be dispositive and the Commission should impose the blackout and unitary package rules without delay. However, the NFL here will take the further step of providing the details that conclusively demonstrate why the carriers should not be permitted to reap the windfall they seek.<sup>1</sup>

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<sup>1</sup> It bears mention that the satellite industry has already been granted one economic windfall in the SHVIA when Congress, despite the satellite carriers' willful, extraordinary, widespread and adjudicated violations of the "unserved household" limitation in the Satellite Home Viewer Act of 1988, 17 U.S.C. §119, "grandfathered" large numbers of ineligible subscribers illegally signed up by the carriers. See NFL Comments at 9 n.8.

Perhaps most fundamentally, the carriers gloss over the fact that they have been implementing sports blackouts for years – making plain that they can make no credible claim of either technical infeasibility or economic hardship. In the NFL context, for example, both C-band and Ku-band carriers are contractually obligated to implement home blackouts in transmitting to their subscribers NFL Sunday Ticket, the satellite-delivered package of all Sunday NFL afternoon game telecasts.<sup>2</sup> In other words, if a home game is not sold out and, therefore, is not televised by the local network affiliate, it is likewise blacked out for NFL Sunday Ticket subscribers in that area.

DIRECTV, which asserts (at 13) that the imposition of sports blackout rules will create "technical difficulties and financial strains," not only administers blackouts in connection with NFL Sunday Ticket, but also in connection with the delivery of 22 regional sports networks across the country. See Tab A (excerpt from DIRECTV website listing regional sports networks). When DIRECTV distributes a regional sports network such as Home Team Sports (HTS), which carries games of the Washington Capitals, Washington Wizards, and Baltimore Orioles, it does so only in a limited area of the country (in the case of HTS, primarily Maryland, Virginia, and the District of Columbia) – effectively blacking out the remainder of the country. Again, it implements these blackouts in 22 regions 365 days a year.<sup>3</sup>

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<sup>2</sup> As discussed below, the carriers overstate the burden of implementing these blackouts. In the recently concluded 1999 NFL regular season, only 39 of 248 games, less than 16%, were blacked out; no post-season game was blacked out.

<sup>3</sup> Further complicating matters is that, if a game involving a local team is not carried by a regional sports network, it is blacked out from the more comprehensive service. Thus, if a game between the Washington Capitals and New York Rangers is not shown on HTS, the satellite carrier must exclude it from the NHL Center Ice package delivered to subscribers in the HTS region.

Like DIRECTV, EchoStar also offers approximately two dozen regional sports networks. See Tab B (excerpt from EchoStar website listing regional sports networks).

Significantly, on the same page of its website that it offers these services, EchoStar acknowledges:

The type and amount of programming you'll receive depends largely on where you live – defined by your ZIP Code. A majority of professional sports and approximately 40% of collegiate sports are subject to blackouts on out-of-market networks. All cable and satellite companies are required to follow these rules.

See Tab B. The DIRECTV website goes even further, providing a detailed seven-page explanation of sports blackouts on the various services it offers (including NFL Sunday Ticket, NBA League Pass, MLB Extra Innings, and NHL Center Ice). See Tab C (excerpt from DIRECTV website). The introduction to that section states:

#### SPORTS BLACKOUTS

Sports blackouts are a factor in every programming distribution service. Blackouts are determined primarily according to who has the rights to broadcast a given game in a given area, and are defined by the leagues.

DIRECTV does not arbitrarily institute game blackouts, but simply follows the restrictions set forth by the various sports leagues or by their rights holders, such as ESPN and TNT.

See Tab C.<sup>4</sup>

Despite the undisputed fact that DIRECTV, EchoStar, and others are implementing many different blackout rules in delivering all these services, their businesses are thriving. DIRECTV, for example, has carried NFL Sunday Ticket for six years – transmitting

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<sup>4</sup> Because the satellite carriers have been implementing sports blackouts for years, there is no need for the Commission to “phase in [a] sports blackout requirement relating to the transmission of network signals over a 12-month period.” DIRECTV Comments at 19.

more than 1,000 games and implementing more than 200 blackouts. Yet not once has DIRECTV complained to the NFL about the cost or difficulty of implementing these blackouts – even when the final decision to black out was made in the hours before game time. See n.10, below.

Notwithstanding the blackout rule, DIRECTV now has more than 850,000 NFL Sunday Ticket subscribers (and, since beginning operations in 1994, has built its total subscriber base to some eight million subscribers).

The satellite carriers' burden claims are further undermined by the requirement imposed by Congress in the SHVIA that they apply sports blackout rules to nationally distributed superstations. Because the technology employed and the administrative procedures involved are the same for network telecasts, the carriers simply cannot credibly claim that it is "technically infeasible" or "economically prohibitive" to provide protection to games broadcast on network stations. This point was implicitly recognized by EchoStar, which argues that "the Commission should not at this point impose any sports blackout rules on satellite carriers" – even though Congress has already directed the Commission to impose sports blackouts with respect to superstations.<sup>5</sup> EchoStar Comments at 10 (emphasis added).

Not only is the technology for implementing blackouts available and in use, but the associated administrative tasks are routine. For example, the NFL provides DIRECTV with lists of zip codes that are not to receive home games in the event of a blackout. These zip codes are entered before the start of the season, and blackouts are quickly implemented simply by identifying the affected home markets. In other words, the process portrayed as so burdensome

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<sup>5</sup> EchoStar suggests that, in the network context, it is "rare" that "a sports team would be capable of invoking the rule." EchoStar Comments at 10. As Congress made plain, however, that is not the test. The only question is whether implementing sports blackouts is "technically (continued...)"

by DIRECTV (at 16) need only be undertaken once before each season.<sup>6</sup> After the zip codes have been entered, all that is required is the equivalent of a flick of the switch.<sup>7</sup>

The situation with respect to C-band is no different: despite the SBCA's lengthy discussion of the difficulties inherent in implementing blackouts through the Access Control Center (ACC), the Association acknowledges (at 12) that blackouts can instead continue to be implemented "through a system . . . to delete programs by zip code." There is no need to make any improvements or other modifications to the operations of the ACC in continuing to implement sports blackouts. Moreover, because, as the SBCA observes (at 3), the C-band universe is contracting, the infrastructure currently in place is being taxed less and less.<sup>8</sup>

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feasible and not economically prohibitive." By its silence on those points, EchoStar implicitly acknowledges that the answer is "yes."

<sup>6</sup> The SBCA asserts (at 14) that a zip code based system could lead to unfair results because in certain zip codes some residents may be located within a blackout area and others may not. This is a red herring. As an initial matter, the potentially affected persons, typically located in fringe areas, constitute only the smallest percentage of those who reside in blackout areas. More fundamentally, in the course of implementing blackouts for NFL Sunday Ticket and other services, the NFL and others have already worked out mechanisms for resolving any such "border disputes," e.g., by examining each affected zip code and determining whether more households lie within or without the blackout area. And there has been no credible evidence that other blackouts – for example, of the 22 regional sports networks carried by DIRECTV and EchoStar – have led to these "unfair results."

<sup>7</sup> Moreover, despite the carriers' suggestion to the contrary, there simply are not that many televised sporting events on a given day that are subject to sports blackout rules. Indeed, there are no more than 14 NFL games played on Sundays in the fall – the vast majority of which are sold out and therefore not blacked out.

<sup>8</sup> Perhaps recognizing their inability to make the case for exclusion from sports blackout rules, the SBCA attempts to muddy the waters by lumping sports blackouts with other program exclusivity rules. As a result of this confusion, the SBCA makes a number of misleading and often simply inaccurate statements such as those (at 7-9) concerning the number of events and markets at issue. See Reply Comments of the National Hockey League.

\* \* \*

One last point concerning the C-band industry warrants brief mention. In its initial comments, the SBCA asserts (at 4-5) that "Congress intended to exempt the C-band segment of the satellite industry from the . . . sports blackout rules contemplated by SHVIA." As support for this proposition, the SBCA relies on a "colloquy" between Senators Hatch and Stevens.

This argument need not detain the Commission long. The plain text of Section 339(b)(1)A) of the SHVIA expressly requires application of sports blackout rules to "satellite carriers," with no limitation at all to DBS carriers.<sup>9</sup> Courts, including the United States Supreme Court, have uniformly rejected the use of legislative history to trump the plain language of a statute. Where, as here, the statute does not provide any exception at all, an exception cannot be engrafted from the legislative history. See, e.g., United States v. Gonzalez, 520 U.S. 1, 6 (1997) (rejecting use of a "snippet of legislative history" to inject a new provision into an unambiguous statute; since this new provision was "in no way anchored in the text of the statute"); Connecticut Nat'l Bank v. Germain, 503 U.S. 249, 253-54 (1992) ("We have stated time and again that courts must presume that a legislature says in statute what it means and means in a statute what it says there. . . . When the words of a statute are unambiguous, then, this first canon [of statutory construction] is also the last: 'judicial inquiry is complete.'") (quoting Rubin v. United States, 449 U.S. 424, 430 (1981); Panamsat Corp. v. Federal Communications Commission, 198 F.3d

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<sup>9</sup> Congress plainly knew how to create such an exception if it so intended. In fact, Congress *did* create another statutory exemption for C-band satellite carriers (in amending Section 119(a)(2)(B) to grandfather distant network stations), but elected *not* to do so in the case of sports blackouts.

890, 895 (D.C. Cir. 1999) (agency could not invoke legislative history to create an exemption to statute, where “plain terms” of statute did not provide for such an exemption); Eagle-Picher Indus., Inc. v. United States Environmental Protection Agency, 759 F.2d 922, 929 (D.C. Cir. 1985) (“We are thus faced with a conflict between the language and structure of the statute, on the one hand, and one portion of its legislative history on the other. It is clear to us that when such a conflict exists, the statute must control.”).

## **II. THE COMMISSION SHOULD APPLY ITS SPORTS BLACKOUT RULES TO SATELLITE AS IT DOES TO CABLE.**

In the absence of any credible burden claim – much less one of the magnitude required by Congress – the Commission should apply its sports blackout rules to satellite just as it does to cable.

Thus, for starters, individual game blackouts should be subject to the same notice provisions adopted by the Commission for cable, 47 C.F.R. § 76.67(c), although zip code lists can be (and, in the NFL’s case, are) provided in advance. Indeed, Congress has already implicitly provided for short notice by requiring the NFL to “lift” blackouts of any home games sold out 72 hours before game time, NFL Comments at 5; again, the satellite carriers are already implementing these blackouts (and lifts) even though the decisions are sometimes made at the last minute.<sup>10</sup> In addition, in the post-season playoffs in the NFL and in other leagues, such as the NBA, the NHL, and Major League Baseball, the teams themselves may not know until days before the game when or where they will be playing – much less whether that game will be sold

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<sup>10</sup> Indeed, in certain circumstances, the NFL grants clubs an additional 24 or 48 hours to sell out. If even 72 hours’ notice were required, the League would be forced to halt this practice. It is difficult to imagine a result more at odds with consumer welfare.

out. If the NFL and others are to continue to implement congressional will in making soldout games available, the Commission's longstanding cable notice rules must be applied to satellite.

Nor should the Commission create an exception for any blackout that would affect fewer than five percent of television households in a given DMA. DIRECTV Comments at 17-18. At the outset, given the carriers' undisputed ability to black out by zip code, there is no basis to distinguish between those DMAs in which many subscribers reside and those in which few subscribers reside – as discussed above, it is simply a matter of entering the appropriate zip codes. More fundamentally, creating such an exception – and thereby permitting blacked out games to be telecast in the core of a team's home territory – would undermine the integrity of the League's blackout rule. Finally, one can only imagine the ill will that would be generated toward the NFL and other sports leagues by requiring blackouts in DMAs that formerly had less than five percent penetration but that subsequently exceeded the threshold (in fact, it is inevitable that carriers' subscriber bases would grow if they were able to offer blackout games).

In the end, it is not entirely clear exactly what the satellite interests want in this regard. On the one hand, they argue that the blackout rules should not be applied if fewer than five percent of the television households in a given DMA would be affected – presumably because implementation, in their view, would not be worth the effort for such a small number. On the other hand, they also complain (unconvincingly) of the burden inherent in blacking out large numbers of households. At no time, however, do the satellite interests identify any penetration rate that would be “acceptable” to them.

The satellite interests' failure to identify any circumstance in which sports blackout rules should be applied to them makes clear their intent – to use the sports leagues' copyrighted programming to give them a competitive advantage vis-à-vis cable. That, however,

was not the purpose of the SHVIA, which seeks only to put satellite on a par with cable; nor is it consistent with Congress's directive that the carriers establish – as opposed simply to asserting – “a very serious economic threat” as a result of implementing sports blackouts. The reason for this demanding standard is plain: as discussed in the NFL's Comments (at 4-6), Congress, the federal courts, and the Commission itself have repeatedly recognized the importance of sports blackouts and have consistently upheld and validated them. The satellite interests have made no case for the Commission to create an exception to these longstanding rules, which they follow today without difficulty.

\* \* \*

In their Comments, none of the satellite interests address in any meaningful way the expansion of network nonduplication rules to cover the NFL's regional television plan. See Notice ¶ 33; NFL Comments at 10-14; see also, e.g., NHL Comments at 21-22; NBA Comments at 2 n.3. As discussed in the NFL's Comments, there are – as several members of the Senate committee that fashioned the underlying statute have urged – compelling reasons why the Commission should recognize the unitary nature of the NFL's television plan and allow local affiliates to exercise network nonduplication protection against the importation of other games played at the same time but broadcast in other regions of the country. The Commission, accordingly, should adopt a rule requiring a satellite carrier to delete from the signal of a network station retransmitted to a subscriber any sports event broadcast pursuant to a rights agreement between the network and a sports league unless the event is being broadcast by a broadcast television station affiliated with the network in the local television market in which the subscriber is located.

## CONCLUSION

For these reasons, as well as those set forth in the Comments of the NFL and the other sports interests, the NFL respectfully requests that the Commission apply its sports blackout rules to any satellite transmission of television programming and to expand its network nonduplication rules to cover the NFL's regional television plan.

Respectfully submitted,



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FOX Sports Pittsburgh	638
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FOX Sports Southwest	643
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FOX Sports West 2	653
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for you. You can watch the Lakers not only on their local FOX Sports Net Affiliate, FOX Sports West, but also on when they play on other FOX Sports Net affiliates as well.

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Remember, if its home team action you're looking for, DirecTV has included your local FOX Sports Net Affiliate in your basic programming package. This is the best, and most affordable way to follow your home team. But if you are looking for as much slam-dunk NBA action as a fan can handle, sign up for NBA League Pass.

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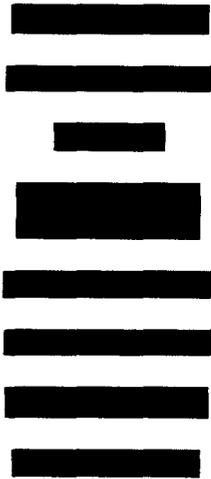
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## Sports

### SPORTS BLACKOUTS

Sports blackouts are a factor in every programming distribution service. Blackouts are determined primarily according to who has the rights to broadcast a given game in a given area, and are defined by the leagues.

DIRECTV does not arbitrarily institute game blackouts, but simply follows the restrictions set forth by the various sports leagues or by their rights holders, such as ESPN and TNT.

#### KEY POINTS

#### PROFESSIONAL SPORTS OVERVIEW

##### NATIONAL RIGHTS

##### LOCAL RIGHTS

##### NFL SUNDAY TICKET™

##### NBA LEAGUE PASS

##### MLB EXTRA INNINGS<sup>SM</sup>

##### NHL® CENTER ICE®

##### MLS/ESPN SHOOTOUT™

##### WNBA SEASON PASS

#### REGIONAL SPORTS NETWORKS

##### ESPN GamePlan

##### ESPN FULL COURT

##### CONCLUSION

#### KEY POINTS

1. Blackout restrictions can apply to professional or college sports. They are imposed to protect the in-market rights holder on an out-of-market or national broadcast feed.
2. Regional sports networks (RSNs) do not provide professional sports from outside their local coverage areas. They do provide professional sports within their own regions. Of course, they also provide non-professional sports events.
3. DIRECTV customers **MUST** have a land-based phone line continuously connected to their DIRECTV System receiver(s) to be eligible to receive sports programming.
4. In general, to view sports action from around the country, you should purchase the TOTAL CHOICE® SPORTS or TOTAL CHOICE® PLATINUM value package -- each one offers over 20 out-of-market regional sports networks\*, including your local regional sports network (except in areas unserved by a local RSN). Plus, you can purchase individual professional sports subscriptions to get even more out-of-market action. And for your convenience, most sports subscriptions automatically continue at a special renewal rate each year unless you call to cancel before the start of the season.

\*RSNs purchased through the TOTAL CHOICE SPORTS or TOTAL CHOICE PLATINUM package do not usually supply additional

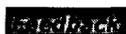
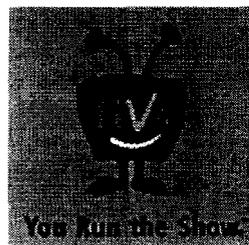
#### Sports

- [This Week ON SPORTS](#)
- [Sports on DIRECTV](#)
- [NFL SUNDAY TICKET™](#)
- [MLB EXTRA INNINGS<sup>SM</sup>](#)
- [NBA LEAGUE PASS](#)
- [NHL® CENTER ICE®](#)
- [ESPN GamePlan™](#)
- [ESPN FULL COURT™](#)
- [MLS/ESPN SHOOTOUT™](#)
- [WNBA SEASON PASS](#)
- [MEGA MARCH](#)
- [MADNESS™](#)
- [Sports Blackouts](#)
- [PLATINUM PRESENTS](#)
- [Ivy League Sports](#)

#### Tonight on DIRECTV

(All times Eastern)

- 4:30pm** **The Thomas Crown Affair**  
1999, Drama  
(R) PPV
- 6:30pm** **The Very Thought of You**  
1999, Comedy  
(R) PPV
- 8:30pm** **Detroit Rock City**  
1999, Comedy  
(R) PPV



professional sports coverage.

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### PROFESSIONAL SPORTS OVERVIEW

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With DIRECTV, customers can receive the most complete professional sports offerings available. All TOTAL CHOICE value packages offer local team coverage to customers located within an RSN's coverage area. For example, a customer based in New York City who chooses any TOTAL CHOICE value package will see local coverage of the Yankees, Knicks and Rangers on Madison Square Garden (MSG) as well as the Mets, Nets, Islanders and Devils from FOX Sports New York. That's because residents of the New York City area are entitled to both MSG and FOX Sports New York with any TOTAL CHOICE subscription.

To receive NBA, NHL and Major League Baseball<sup>®</sup> games from outside teams' areas, customers should choose the seasonal NBA LEAGUE PASS, NHL<sup>®</sup> CENTER ICE<sup>®</sup> and MLB EXTRA INNINGS<sup>SM</sup> subscriptions. These pro sports-only subscriptions provide games on an out-of-market basis. Except in extremely rare cases, they do not provide coverage of a customer's local teams.

The NBA, NHL and Major League Baseball<sup>®</sup> games shown through our seasonal pro sports subscriptions come from two sources: the RSNs that we carry and "wild feeds," which originate from over-the-air TV stations or local cable systems. To receive the games broadcast on their local off-air stations, subscribers must have an off-air antenna or basic cable service.

For NFL games, DIRECTV offers NFL SUNDAY TICKET<sup>™</sup>, which provides both in-market and out-of-market action every Sunday during the regular season (subject to local blackouts; see below for details).

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### NATIONAL RIGHTS

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If a national broadcasting service such as ABC, NBC, CBS or FOX has the national rights to broadcast an NBA, NHL or Major League Baseball<sup>®</sup> game, customers may or may not be able to receive that game through their DIRECTV subscription(s), depending on the local market in which they live. If a service that DIRECTV carries – such as ESPN, ESPN2, TNT, TBS or USA – has the national rights to broadcast a game, subscribers will be able to receive it through their TOTAL CHOICE, TOTAL CHOICE MOVIES, TOTAL CHOICE SPORTS, TOTAL CHOICE PLATINUM or SELECT CHOICE<sup>®</sup> subscription, although some of these games are also subject to blackout. Regional sports networks do not obtain national broadcast rights to professional sports.

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### LOCAL RIGHTS

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If a local off-air broadcast channel (not ABC, NBC, CBS or FOX) or local cable system has the rights to broadcast a pro game in a certain region, customers in that area will be unable to receive that game through their DIRECTV subscription(s). If a regional sports network that DIRECTV carries has the local rights to broadcast a game, customers within the region can receive that game through any DIRECTV TOTAL CHOICE subscription, which includes customers' in-market regional sports network(s). Customers outside of the region will receive that game through the appropriate out-of-market pro sports subscription.

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## PROFESSIONAL SPORTS SUBSCRIPTIONS

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### NFL SUNDAY TICKET™

I live 80 miles from an NFL stadium. Will NFL SUNDAY TICKET bring me all the games played in that stadium?

All sold-out regular season, Sunday afternoon NFL games are televised locally and on NFL SUNDAY TICKET. The only time a regular season, Sunday afternoon game is blacked out is if it fails to sell out at least 72 hours before the game. If it is blacked out on your local broadcast station, it will also be blacked out in your area on NFL SUNDAY TICKET. Each stadium's local blackout area is defined by the broadcast signal of the local affiliate carrying the game, not by the mileage surrounding the stadium or by zip code. To find out if your home is inside the local broadcast area, call DIRECTV at the phone number printed on your bill and ask one of our entertainment consultants to check your zip code against our master list.

#### Reasons for NFL blackouts:

- To make sure the team benefits from a stadium full of enthusiastic fans.
- To protect home game attendance of the teams.
- To assure the entertainment value of a full stadium -- for people in the stands and for people watching TV.

#### How are blackouts done?

If you live in a zip code that is within a blackout area, your satellite dish will be individually blacked out only for the affected game. You won't miss any other channels or games.

#### Will I see an NFL game that's played at my local stadium?

*You won't if:*

Your zip code falls within a blackout area and the game doesn't sell out 72 hours before scheduled kickoff.

*You will if:*

The game sold out or your zip code falls outside of a blackout area for a game that is not sold out.

### NBA LEAGUE PASS

NBA LEAGUE PASS is a sports package of NBA regular season games from outside a subscriber's local viewing area. The games included in NBA LEAGUE PASS are in addition to those available on NBC, TNT, TBS and a subscriber's in-market networks (regional sports network and/or over-the-air network).

Blackout restrictions apply to all NBA games that are offered on NBA LEAGUE PASS. Such blackout restrictions are designed to protect the television rights holders in the competing teams' respective home markets. Blackouts are not based on arena sellouts.

If a local over-the-air network has the rights to broadcast an NBA game in its local area, customers in that area will be unable to receive that game via their satellite service. However, they may be able to see the game via their local channels. If an RSN carries the game locally, a subscriber will likely be able to see the game as long as the subscriber has a level of service that includes that RSN. Here's an example:

The Lakers are playing the Rockets and both teams are broadcasting the game locally -- KCAL-Channel 9 in the Los Angeles area and FOX Sports Southwest in the Houston area. NBA LEAGUE PASS subscribers living in the Los Angeles area will be blacked out within the Lakers' over-the-air territory. To see the game, they must be able to receive KCAL. Subscribers living outside of the KCAL coverage area will receive the game via NBA LEAGUE PASS unless they live in the Houston area. Subscribers in the Houston area will be blacked out of the game for NBA LEAGUE PASS, but will be able to access the game if they subscribe to

TOTAL CHOICE, TOTAL CHOICE MOVIES, TOTAL CHOICE SPORTS or TOTAL CHOICE PLATINUM and therefore receive FOX Sports Southwest.

#### **MLB EXTRA INNINGS<sup>SM</sup>**

##### **Local Blackout Information**

If you live in a zip code that is within a Major League Baseball<sup>®</sup> team's territory, that team's games will be blacked out from the MLB EXTRA INNINGS game package, but will generally be available as part of your local regional sports, cable or over-the-air network. Blackouts protect the local rights holders who arrange separate distribution agreements for their exclusive territories.

##### **ESPN Blackout Information**

###### *ESPN Sunday Nights*

ESPN has an exclusive national broadcast window for all Major League Baseball games on Sunday nights; therefore, no telecast can be made available for DBS distribution. As they have rights to night games only, any games which start after 5:00 p.m. ET (2:00 p.m. PT) cannot be distributed via DBS carriers out-of-market.

###### *ESPN Wednesday Nights*

ESPN has an exclusive national broadcast window for all Major League Baseball games that begin after 5:00 p.m. ET (2:00 p.m. PT) on every Wednesday through the end of the regular season. This means that regional telecasts cannot be distributed via DBS carriers out-of-market. The only games available on Wednesday nights will be on ESPN and your local regional sports network.

##### **FOX Television Network Blackout Information**

Beginning May 27, 2000, and continuing for the remaining Saturdays in the regular season, the FOX Television Network has the exclusive national rights to broadcast Saturday games up until 7:00 p.m. ET (4:00 p.m. PT). So, while you will not receive Major League Baseball games on your MLB EXTRA INNINGS channels any Saturday morning or afternoon, you will receive the available Saturday night games that begin after 7:00 p.m. ET (4:00 p.m. PT). For Saturday morning and afternoon games, check out the FOX Television Network broadcast schedule in your local listings.

#### **NHL<sup>®</sup> CENTER ICE<sup>®</sup>**

NHL CENTER ICE is an out-of-market television subscription offered by the National Hockey League. The subscription allows customers to see broadcasts of NHL games involving teams from outside their local area.

NHL CENTER ICE delivers up to 30 games a week, including the best Canadian team matchups, with game broadcasts of CBC's Hockey Night in Canada and CTV SportsNet. In addition, NHL CENTER ICE subscribers will see select first and second round Stanley Cup playoff matches.

Blackout restrictions apply to all games that are on NHL CENTER ICE. Blackout restrictions are designed to protect the television rightsholders in the competing teams' respective home markets. Blackouts are not based on arena sellouts. Here's an example:

If the St. Louis Blues are playing the New York Rangers, the local telecast areas of the Blues and Rangers will be blacked out on NHL CENTER ICE, regardless of whether the teams are televising locally. If the teams are televising locally, NHL CENTER ICE subscribers can view the game on their over-the-air television station or their local regional sports network (RSN) -- included with any DIRECTV TOTAL CHOICE value package.

NHL CENTER ICE is not for customers who want to watch their local team telecasts. NHL CENTER ICE is designed for the NHL fan who wants to watch NHL games involving teams from outside their local area.

#### **MLS/ESPN SHOOTOUT<sup>TM</sup>**

MLS/ESPN SHOOTOUT contains MLS games originating from either a regional sports network (RSN) or a local over-the-air (OTA) station and delivers these games to customers who purchase this subscription. These games are not otherwise available to DIRECTV subscribers because they are broadcast outside of a subscriber's local area. Further, MLS games shown nationally on ESPN, ESPN2, Univision and ABC are not included as part of this sports subscription.

**No blackout restrictions apply to MLS/ESPN SHOOTOUT.**

**WNBA SEASON PASS**

Blackout restrictions apply to all WNBA games that are offered on the WNBA SEASON PASS subscription. Such blackout restrictions are designed to protect the television rightsholders in the competing teams' respective home markets. Blackouts are not based on arena sellouts.

Regional sports networks (RSNs) do not provide WNBA games to subscribers outside the applicable RSN's local coverage. RSNs provide WNBA games to subscribers within their own regions as long as the subscriber has a level of service (i.e., any DIRECTV TOTAL CHOICE value package) that includes that RSN. WNBA SEASON PASS is not for customers who want to watch only their home teams. This subscription is designed for WNBA fans who want to see WNBA games other than those that involve their local teams.

**National Rights**

If NBC, Lifetime or ESPN is telecasting a game nationally, that game will not be included in WNBA SEASON PASS. However, most subscribers will be able to access these games via their DIRECTV TOTAL CHOICE value package or their local channels. RSNs do not have national rights to WNBA games.

**Local Rights**

If a local over-the-air network has the rights to broadcast a WNBA game in its local area, customers in that area will be unable to receive that game via WNBA SEASON PASS on DIRECTV. However, they may be able to see the game via their local channels. If an RSN carries the game locally, a subscriber will likely be able to see the game as long as the subscriber has a level of service (i.e., any DIRECTV TOTAL CHOICE value package) that includes that RSN, or via an off-air antenna.

**Game Carried on RSN**

Actual blackout territory for RSN games varies by team. A game that is telecast locally by an RSN will not be available on WNBA SEASON PASS to subscribers within such RSN's local coverage area (which normally extends beyond 150 miles from the applicable team's city and, in certain cases, 250 miles from the applicable team's city). Instead, DIRECTV customers should tune in to their local RSN to view the game.

**Game Carried on Over-the-Air Television**

Generally, DIRECTV customers within 75 miles of the home city will not receive such game on WNBA SEASON PASS.

**Game Not Televised**

Games not televised locally will not be subject to blackouts in the 2000 season.

**REGIONAL SPORTS NETWORKS**

DIRECTV carries over 20 regional sports networks.

For RSNs that carry more than one professional team in a single sport, alternate channels are used to provide multiple team coverage -- e.g., FOX Sports Southwest carries the Houston, Dallas and San Antonio NBA teams. If more than one professional game is being played at the same time on the network (and being made available only within each team's defined geography), one of these games is designated as the "alternate" game and is also made available to subscribers living within that team's area. The feed is typically aired on one of the designated DIRECTV alternate channels.

**Multiple "Local" RSNs**

Some areas of the country are served by more than one RSN. Customers who live in such areas will receive all of their appropriate "local" RSNs. For example, customers in the greater New York area who subscribe to TOTAL CHOICE, TOTAL CHOICE MOVIES, TOTAL CHOICE SPORTS or TOTAL CHOICE PLATINUM will receive both MSG and FOX Sports New York as their "local" RSNs.

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**COLLEGE SPORTS SUBSCRIPTIONS**

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DIRECTV offers ESPN GamePlan college football on a daily and an annual basis and ESPN FULL COURT college basketball as a season ticket.

**ESPN GamePlan**

There are two main components to the ESPN GamePlan college football subscription. The first part includes the ABC Sports regionally televised games shown simultaneously, and the second part includes regionally syndicated games from top NCAA Division I conferences shown in various markets around the country.

ESPN GamePlan is subject to blackouts for those games in your designated region. As ABC Sports simultaneously broadcasts several games to different regions of the country, ESPN GamePlan subscribers will see one game each week on their local ABC station instead of in the subscription. As a result, if you are an ESPN GamePlan subscriber, the game(s) shown on the ABC affiliate within the local market will be blacked out.

The same may apply to some regionally syndicated games. ESPN GamePlan subscribers may receive some games via local TV stations. Those games may also be available in the subscription or, in limited situations, could be available only via the local station and not be duplicated in the subscription.

**ESPN FULL COURT**

The ESPN FULL COURT subscription of college basketball games consists of two components: regionally and locally broadcast games.

ESPN FULL COURT broadcasts games that are seen only in specific regions of the country. For example, the SEC Game of the Week is seen within the southeastern region of the country but not in other parts of the country. ESPN FULL COURT delivers these games (and others) on a national basis to viewers who previously could not see them. In addition to the SEC, ESPN FULL COURT consists of weekly conference games from the ACC, BIG TEN, BIG XII, BIG EAST, ATLANTIC 10, CONFERENCE USA, MOUNTAIN WEST and others. These games are not part of ESPN or ESPN2's college basketball broadcasts and cannot be seen on a national coverage basis anywhere other than on ESPN FULL COURT.

ESPN FULL COURT also contains games that are shown only in specific markets directly interested in the game. For example, the University of Kansas at Santa Clara game may only be broadcast in Kansas and California. As mentioned above, ESPN FULL COURT will also deliver this game to viewers who previously could not have seen it. These games are also not part of ESPN or ESPN2 and cannot be seen anywhere other than ESPN FULL COURT.

Blackout rules apply to ESPN FULL COURT only for ACC games in ACC territories. If you live in one of these areas, you may still be able to view these games on your local regional sports network or over-the-air network.

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**CONCLUSION**

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Sports blackouts may seem confusing, but the concept is simple. Blackouts protect the in-market rights holder from the out-of-market coverage coming into the local area. Remember: Blackout restrictions apply, so not all customers receive every game in every subscription. But through a combination of subscriptions, customers can come closer than they ever thought possible to viewing their game of choice. All they need to receive great sports programming is a DIRECTV subscription (not required for NFL SUNDAY TICKET) and a DIRECTV System receiver continuously connected to a land-based phone line.

**Programming, pricing, terms and conditions subject to change.** Some TOTAL CHOICE value packages may not be available in the limited areas served by members or affiliates of the National Rural Telecommunications Cooperative.

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