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ORIGINAL

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, D.C.

Re: Permitted Ex Parte Communication, CS Dkt. No. 00-2

Dear Ms. Salas:

In a meeting on March 15, 2001, the Commission's Cable Bureau staff indicated that it would be willing to consider revisiting the issue of a change made in former Section 76.67 of the Commission's Rules, dealing with cable sports blackouts.

In a Petition for Reconsideration of the Commission's new blackout rules adopted in November 2000, the National Basketball Association, National Hockey League, National Football League and Office of the Commissioner of Baseball (collectively, "the Leagues") focused in part on the FCC's inadvertent change in the protection of old Section 76.67, now Section 76.111. Under the Cable Bureau's effort to recognize that the must-carry rules were changed twenty years ago, Section 76.111 no longer requires a priority in signals and therefore no longer would require the blackout of a visiting team's Grade B in the home team's 35-mile Specified Zone. The Leagues agreed to provide an indication of the numbers of times in the most recent seasons of the Leagues in which there would have been blackout situations under the former rules, but not under the new rules.

To use the factual situation posited in the Petition, under the old cable rules, the Milwaukee Bucks had the right to demand that a cable system within 35 miles of Milwaukee blackout the telecast on WGN-TV, Chicago, of a Bulls game in a community (e.g., Racine, WI) covered by the Predicted Grade B contour of WGN. Under new Sections 76.111 and 76.128 of

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the Commission's rules, the demand could not be made because Racine is within the Predicted Grade B contour of WGN.

Based on the 2000 (National Football League and Major League Baseball) and 2000-2001 (National Basketball Association and National Hockey League) seasons, the following analysis for the Leagues, showing the markets and telecasts involved, has been made. Taking into account geography, scheduling, and telecasting patterns, we believe it represents every blackout situation – potential and actual – in all four leagues that would have been affected had the change in the rules taken place a year ago.

Of course, playing schedules, television schedules, and often the identity of flagship/network affiliate stations change each season, such that the instances of blackout situations permitted by the old rules, but precluded by the new rules, could be different from year-to-year.

National Basketball Association

Only two geographic overlaps exist: Chicago-Milwaukee and Philadelphia-New York/New Jersey.

Chicago-Milwaukee. During the 2000-2001 season, Milwaukee televised two games from Chicago on WCGV, whose signal appears to reach about thirty-four miles from Chicago. Chicago televised one game from Milwaukee on WGN, whose signal reaches well within 35 miles of Milwaukee.

Philadelphia-New York/New Jersey. During the 2000-2001 season, none of the eight games played among these teams was shown over-the-air. Philadelphia does have an active over-the-air schedule on WPSG, whose signal comes within 35 miles of New York, but neither the Knicks nor the Nets have a recent history of showing any games locally on over-the-air.

There were no regional network affiliates throughout the League in 2000 whose Grade B contours might overlap the Specified Zones of other league teams.

National Hockey League

Only one geographic overlap exists: Philadelphia-New York Rangers/New York Islanders/New Jersey Devils.

Philadelphia-New York Rangers/New York Islanders/New Jersey Devils. During the 2000-2001 season, of the seven away games played by Philadelphia at the Rangers, Islanders, or Devils, four of them are televised over-the-air on WPSG, whose signal comes within 35 miles of

New York. Of the eight away games played by the Rangers, Islanders, or Devils at Philadelphia, none is being shown over-the-air. Only the Islanders has a recent history of showing games locally over-the-air; a small number of games have been shown on WLNY, Riverhead, whose signal does not reach any other NHL market.

There were no regional network affiliates in 2000 whose Grade B contours might overlap the Specified Zones of other league teams.

National Football League

The circumstances for overlaps might be greater, given that every game in the National Football League is televised over-the-air; however, this is ameliorated significantly by the NFL's policy on blackout-lifting when a game is sold out and by the fact that non-divisional opponents are not played every year. The following markets raise the potential of overlaps: Washington-Baltimore; Philadelphia-New York; Philadelphia-Baltimore; Indianapolis playing at Cincinnati; and Cleveland playing at Pittsburgh.

Washington-Baltimore. The two teams played in 2000 in Washington, but the game was sold out and the blackout lifted. The Predicted Grade B contours of both respective Fox and CBS flagships easily come within the other's Specified Zone.

Philadelphia-New York Giants. The two teams played in 2000 in each city, as they do every year, but the games were sold out and the blackouts lifted. The Predicted Grade B contours of both Fox flagships come within the other's Specified Zone.

Philadelphia-Baltimore. The two teams did not play in 2000. The Predicted Grade B contours of both respective Fox and CBS flagships come barely within the other's Specified Zone.

Indianapolis playing at Cincinnati. The two teams did not play in 2000. The Predicted Grade B contour of the Indianapolis CBS flagship comes barely within the Cincinnati Specified Zone (but the Cincinnati CBS flagship does not reach the Indianapolis Specified Zone).

Cleveland playing at Pittsburgh. Cleveland played at Pittsburgh in 2000 (as well as Pittsburgh at Cleveland), but the game was sold out and the blackout lifted. The Predicted Grade B contour of WKBN-TV, Youngstown (CBS), which always carries the Cleveland games, comes within the Pittsburgh Specified Zone (but no CBS station carrying Pittsburgh comes within the Cleveland Specified Zone).

Major League Baseball

For Baseball in 2000, there were seven **same league** potential overlap situations which could have required cable deletions, based on geographic location and regional networks: Chicago Cubs-Milwaukee; Philadelphia-New York Mets; Los Angeles playing at San Diego; Boston playing at New York Yankees; and Cleveland playing at Detroit.

Chicago Cubs-Milwaukee. Chicago televised 1 game from Milwaukee on WGN, which required a cable deletion. The signal of WGN reaches within 35 miles of Milwaukee. Milwaukee televised 1 game from Chicago Cubs on WCGV, which required a cable deletion. The Grade B contour of WCGV reaches just inside the Chicago Specified Zone. (Milwaukee also televises over WISN, whose Predicted Grade B contour also reaches into the Chicago Specified Zone, but no blackouts were triggered in 2000.)

Philadelphia-New York Mets. Philadelphia televised 2 games from the New York Mets on WPSG, which required deletions. New York did not televise any games from Philadelphia on WPIX in 2000. The signals of both stations come within 35 miles of the other city.

Los Angeles playing at San Diego. Los Angeles did not televise any games from San Diego on KTLA which would have required deletions. The signal of KTLA comes within 35 miles of San Diego.

Boston playing at New York Yankees. Boston televised 2 games from the New York Yankees. These were shown on its regional affiliate, WTXX, Waterbury, which required deletions. The signal of WTXX comes within 35 miles of New York.

Cleveland playing at Detroit. Cleveland televised 2 games from Detroit. These were not shown on its regional affiliate, WUPW, Toledo, which would have required deletions. The signal of WUPW comes within 35 miles of Detroit.

In addition, **interleague** games televised in 2000 triggered blackouts by Anaheim playing at San Diego (1 game), Philadelphia playing at Baltimore (1), Cleveland playing at Cincinnati (1), Philadelphia playing at New York Yankees (1), and Milwaukee playing at Chicago White Sox (1) where the Predicted Grade B contours came within 35 miles of the home city. There were no additional potential blackout situations in 2000. (In the future, should the following teams play **interleague** games, potential blackout situations could arise due to overlaps: New York Yankees playing at Philadelphia; San Diego playing at Anaheim; Baltimore playing at Philadelphia; Boston playing at New York Mets; Chicago White Sox playing at Milwaukee. None of these situations arose in 2000 and it remains to be seen if any will arise in the future.)

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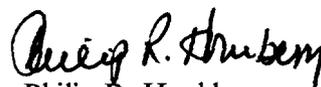
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This amounts to a total of 18 telecasts which would have required deletion among all 120 professional teams playing in the four major sports in 2000-2001, including blackouts in the following markets:

New York	9
Chicago	3
Milwaukee	3
San Diego	1
Baltimore	1
Cincinnati	1

Should you have any questions, please communicate with the undersigned.

Sincerely,


Philip R. Hochberg

cc: William Johnson, Esq.
Eloise Gore, Esq.
Ronald Parver, Esq.