

REDACTED VERSION

FILED/ACCEPTED

WRITTEN TESTIMONY OF RONALD H. FURMAN

APR 22 2009

Federal Communications Commission
Office of the SecretaryBackground

1. My name is Ronald H. Furman. I have been employed by NFL Ventures, L.P., an affiliate of the National Football League (the "League"), since May 2006. When my employment began, I held the position of Senior Vice President of Sales. I currently serve as Senior Vice President – Customer Marketing and Sales. In these roles, I have been responsible for supervising all aspects of the advertising sales operations of the NFL Network, a 24-hour cable and satellite network owned and operated by NFL Enterprises LLC, an affiliated company of the League. My current responsibilities include participation in the NFL Network's marketing and sales efforts and overseeing the NFL Network's competitive analyses.

2. My career in advertising and media sales spans almost three decades. Early on, I worked as an Assistant Media Buyer at William Esty Advertising, and then at John Blair Television, a firm that represents television stations in the sale of advertising time, as an Account Executive. In 1987, I joined the American Broadcasting Company ("ABC") as an Account Executive selling advertising time to "media buyers"¹ of ABC's television station group. I subsequently became an Account Executive for ABC's sports sales division, and then for its entertainment division, before serving as Vice President of Sports Sales for the ABC Television Network. I was later promoted to Vice President of Prime Time Sales, a position in which I managed a sales force that negotiated advertising sales with media buyers.

¹ "Media buyers" refers to employees of advertising agencies who purchase advertising time on behalf of their clients. Such clients may include any person, business or other entity interested in advertising for any variety of reasons.

3. In 1998, I assumed the role of Executive Vice President of Sales for the Univision Television Network, an affiliated company of the Spanish-language media conglomerate Univision Communications (“Univision”). There my responsibilities included overseeing a staff that negotiated the sale of advertising time on, initially, the Univision Television Network, and later on additional television and radio assets acquired by Univision. I left Univision in 2004 to join Viacom as Senior Vice President of Sales for MTV Networks – the last position I held before joining the League. At Viacom, I again managed a sales force that negotiated with media buyers for the sale of advertising time.

Advertising Process

4. I have significant experience with the process by which national advertisers purchase advertising time on cable networks. Those advertisers generally adhere to the accepted industry guideline that cable channels are considered “national” in reach only if they reach approximately 50 to 60 million households. As such, advertisers tend to consider expenditures from their national advertising budget only for channels that reach this distribution threshold. Advertisers may purchase time on channels that do not meet this threshold, but generally do so from their smaller regional or local advertising budgets.

5. Cable channels may under certain circumstances – for example, where a channel’s programming is exceptionally compelling – receive consideration for national advertising purchases despite reaching fewer than 50 to 60 million subscribers. However, as distribution falls below 50 million subscribers, or continues to fall well below that mark, it becomes increasingly difficult for a channel to compete for national advertising.

6. Advertisers with which the NFL Network deals typically compile an initial list of the top national channels that satisfy certain broad criteria – for example, channels that appeal

to 18 to 49 year-old males or sports channels. They then review this list to determine which channels most successfully provide the measurable deliverables, such as high ratings in key demographic groups. In my experience, advertisers do not consider factors such as how long an otherwise high-performing network has been operating in determining whether to purchase advertising time.

7. These advertisers then typically allocate their finite advertising budgets among the channels that produce the highest ratings or other desired deliverables. Accordingly, advertisers generally buy lesser amounts of national advertising from channels that produce lower ratings or that are viewed in fewer households.

8. The precise sport carried on a particular channel is generally not determinative of advertising purchases unless (a) an advertiser is placing a sport-specific advertising campaign, in which case it may choose to advertise only on channels that carry that sport, or (b) the image of the sport is inconsistent with the product's brand, in which case the advertiser may disqualify certain sports channels. No advertiser, in my experience, has disqualified the NFL Network from consideration on the ground that football is unsuitable for association with its product brand.

9. Except in these narrow circumstances, most sports advertisers seek to purchase time from the sports networks that most effectively reach 18 to 49 year-old males, regardless of the specific sport or programming the network carries; that demographic is the key audience for virtually all sports networks.

NFL Network's Competitors

10. As a part of this process, advertisers often invite channels to provide information that may be relevant to their decision-making. For example, advertisers have asked

the NFL Network to compare its performance to the performance of certain competitors that are also near the top of advertisers' vetting lists. Advertisers usually ask the NFL Network to compare itself to other key national sports channels, including the ESPN family of channels, Versus, the Golf Channel, Fox Sports Net, and the recently-launched MLB Network operated by Major League Baseball. In my experience, advertisers commonly view these channels as the NFL Network's chief competitors for their business.

Advertising Sales

11. Advertisers – often through their media buyers – look to Nielsen Media Research (“Nielsen”) subscriber numbers as an important indicator of a channel's ability to achieve targeted viewership. Nielsen's subscriber numbers (sometimes referred to as “available homes”) are the industry-accepted standard on which advertisers rely in making decisions regarding advertising purchases, and the relevant incentive metric used by advertisers in deciding whether to allocate national advertising expenditures to the NFL Network. Thus, the number of available homes reported by Nielsen can directly impact the NFL Network's ability to compete for national advertising dollars.

12. On a more individualized basis, advertisers additionally may choose to consider other quantitative or qualitative factors in making decisions regarding national advertising investments. Those factors might include, for example, the (a) number of “billable subscribers” to a channel, which represents the actual number of subscribers paying for the service; (b) attractiveness of the channel's programming; or (c) unique appeal of channel or content association with an advertiser's product.

13. With respect to programming, a single program (such as a regular season NFL game) with a massive audience is often more valuable to advertisers than multiple programs

(for example, live National Hockey League games or golf tournaments) that, in the aggregate, reach the same number of viewers. This is in part due to the duplication of viewers among the multiple programs.

14. Through a combination of subscribership approaching the 50 million subscriber mark and the exceptional appeal of its content to advertisers, the NFL Network has been able to compete for national advertising contracts. However, because most advertisers are concerned about distribution, I believe that the NFL Network would have greater opportunities to compete for advertising if it were more broadly distributed, including on Comcast's systems.

15. When the NFL Network sells advertising time, it charges advertisers on the basis of a specified cost per thousand viewers, a measure known as "CPM." As a result, the number of subscribers who can access the NFL Network directly impacts the price of advertising it sells.

16. Many advertisers discount the CPM rate that they are willing to pay based on the NFL Network's subscriber levels. Accordingly, if the NFL Network reaches fewer than an advertiser's "national network" target of approximately 50 to 60 million subscriber households, the advertiser often reduces the CPM that it is willing to pay. By extension, as distribution continues to decrease well below 50 million subscribers, the advertiser will often insist on further CPM discounts. Advertisers have differing methods of calculating the rate that they will pay for NFL Network advertising, but some type of discount based on nationwide penetration is common.

Effect of Comcast's Tiering

17. After Comcast dropped the NFL Network from its second-most widely penetrated level of digital service, known as "D2," and instead placed it on a premium sports tier,

the NFL Network very conspicuously experienced a significant reduction in its Comcast subscribership of above 80%.

18. As a result of this reduction, the NFL Network lost its ability to compete for many national advertising contracts. Through our efforts, we have been able to grow our overall advertising revenues, but our ability to do this has been impaired by Comcast's reduction of our subscriber base. To provide a specific example, notified the NFL Network that it would not renew its long-term contract because of the decline in the NFL Network's subscribership. The business lost from alone accounted for of the NFL Network's gross annual advertising revenues in 2007.

19. Other NFL Network advertisers, including and , have excluded the NFL Network as a competitor for national advertising contracts because of its reduced nationwide distribution. Still other advertisers – , for example – have reduced advertising expenditures on the NFL Network due to its decreased penetration.

20. In addition, following Comcast's placement of the NFL Network on a premium sports tier, the Network has received less revenue for the advertising that it has been able to sell, even under existing contracts. This has been the result of the CPM discount applied by many advertisers based on the Network's reduced household penetration.

* * *

I declare under penalty of perjury that the foregoing written testimony is true and correct.

Executed on April 3, 2009.


RONALD H. FURMAN