



March 28, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 12-3

Dear Ms. Dortch:

The attached two-page summary of arguments made in the above-captioned proceeding was provided to Dave Grimaldi, office of Commissioner Mignon Clyburn, by the undersigned.

Sincerely,

/s/ _____

David Goodfriend
Sports Fans Coalition

FCC Proceeding to Consider Eliminating the Sports Blackout Rule
**Summary of Comments and Replies by Sports Fans Coalition, Public Knowledge,
National Consumers League, Media Access Project, League of Fans**

- 1) The Commission should eliminate the sports blackout rule.
 - a. Unnecessary, anti-consumer public subsidy
 - b. Leagues should use private negotiations rather than public regulations
- 2) Fans, particularly elderly and disabled ones, oppose government policies supporting blackouts.
 - a. Many elderly, disabled cannot attend games in person and rely on TV
- 3) No compelling economic rationale supports sports blackouts
 - a. NFL has provided no actual evidence that blackouts significantly increase ticket sales
 - b. Top sports economists argue “no factual basis to the claim that the NFL would suffer a significant adverse effect”
- 4) Eliminating Sports Blackout rule will not migrate more sports to pay TV.
 - a. Claim is based on false premise that blackouts significantly affect attendance and revenues
 - b. Changing blackout policy will not alter relative attractiveness of broadcast or pay TV to the NFL
 - c. NFL and broadcasters trying to have it both ways: they say ending blackout rule would lead to migration of pro sports to cable, but NFL down-plays economic significance of blackouts
- 5) Blackouts won't necessarily end if Commission eliminates Sports Blackout Rule
 - a. Compulsory copyright statutes curtail pay TV providers from carrying games
 - b. satellite providers prohibited from importing game from distant market
 - c. cable providers would have to pay six months of copyright fees for one game
 - d. Network non-duplication rule blocks blacked out games on broadcast networks
 - i. All free over-the-air games in NFL on Fox, NBC or CBS
 - e. Broadcasters would likely invoke retransmission consent to limit out-of-market use of their signals
- 6) Blackouts may end, however, if NFL forced to negotiate for them in free market
 - a. Leagues have contracts today with all major pay-TV providers and can bargain for blackout protection if they so choose.
 - b. NFL claims pay TV providers “likely would resist inclusion of any contractual alternative to sports blackout rule”
 - c. Why should government have to uphold leagues' blackout policies, especially when they haven't shown evidence of economic harm?
- 7) Commission should open rule-making proceeding
 - a. Top sports economists explain market has changed over four decades
 - b. compulsory copyright statutes and regulations have changed in four decades
 - c. thousands of fans have written in support of ending rule

**Limitations on Pay-TV Providers Importing an
Out-of-Market Broadcast Signal to
Provide Fans with a Locally Blacked Out Game**

	Cable Company	DISH Network	DIRECTV
Compulsory copyright statutory restrictions	Sec. 111 makes market-wide importation cost-prohibitive (rate of up to 3.75% of revenue; carriage could trigger payment for entire 6-month period)	If-Locals-No-Distant rule precludes distant network signals to all 210 DMAs served with locals by DISH, which includes major media markets with sports stadiums	If-Locals-No-Distants rule applies because DIRECTV provides locals in major media markets with sports stadiums. Only exception might be grandfathered distant network signal subscribers
Network Non-Duplication Rule applies?	Yes—any game on network broadcast cannot be imported	Yes	Yes
Retransmission consent limitations imposed by out-of-market broadcaster?	Probably—out-of-market station retransmission consent agreements likely restrict out-of-market use of signal	Probably	Probably