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November 20, 2013

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *MB Docket No. 12-3*

Dear Ms. Dortch:

During a recent meeting with Matthew Berry, Commissioner Pai's chief of staff, to discuss the League's media policy and how the FCC's sports blackout rule serves the public interest, a question arose of whether the copyright royalty system would act to discourage cable systems from transmitting distant signals (*i.e.*, broadcast signals that are carried beyond the local service area of a television station's primary transmitter). In short, the answer is "No." In many cases, cable systems are not required to pay any additional royalties for transmitting the distant signals of some of the season's most popular football games. In other cases, the additional royalties are so small that they do not seriously deter cable systems from transmitting highly rated programming such as NFL games. For this reason, the Commission cannot count on the copyright payment system to discourage activity that undermines the local broadcaster.

Here is a high-level overview of the copyright royalty process for cable systems. Every six months, each local cable system must provide the Copyright Office with a Statement of Account, in which the cable system tabulates the copyright royalties that it owes due to its transmission of distant signals.¹ A complex formula, based largely on a percentage of the cable system's gross receipts, determines a cable system's semi-annual royalties.² Under this formula, a cable system pays a minimum royalty, regardless of whether it actually carried any distant signals. If a cable system has transmitted one "independent" (*i.e.*, non-network) station's distant signal or four "network" stations' distant signals during the six-month period, that royalty gradually increases, based on the number of additional distant signals that the system has transmitted.³

¹ *See* 17 U.S.C. § 111.

² 37 C.F.R. § 201.17.

³ 17 U.S.C. § 111(f). The duration of the broadcast is usually irrelevant to the royalty calculation; in general, the transmission of one hour of a station's programming during a six- (continued...)

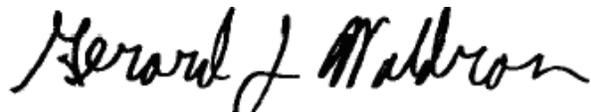
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In other words, a cable system does not pay additional royalties for transmitting the distant signals of up to four network-affiliated television stations. For example, a cable system in San Francisco could transmit the live sports games (and all other programs) from network television stations in New York City, Atlanta, New Orleans, and St. Louis, and the cable system would only pay the minimum royalty: the same amount that the cable system would pay if it did not transmit any distant signals. And the fees for the next few distant signals that a cable system transmits could be *de minimis*, depending on a number of factors specified in the formula. Accordingly, the copyright royalty system often does not deter cable systems from transmitting the distant signals of many of the most popular football games.

For this reason, the FCC's sports blackout rule remains necessary to discourage cable systems from transmitting distant signals and to promote broadcasting arrangements that benefit the public so greatly by ensuring that local fans -- without having to buy a pay-TV service -- can enjoy premier sports.

Please direct any questions to the undersigned.

Sincerely,



Gerard J. Waldron
Counsel to the National Football League

cc: Mr. Matthew Berry
Ms. Maria Kirby
Ms. Holly Saurer
Ms. Sarah Whitesell

month accounting period counts as one distant signal, and the transmission of 4,000 hours of a station's programming during that time also counts as one distant signal.