



June 17, 2014

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

Re: *Sports Blackout Rules, MB Docket No. 12-3*

Dear Ms. Dortch:

On June 16, 2014, representatives from Sports Fans Coalition, Inc. (“SFC”) and the National Consumers League (“NCL”) met with staff from Chairman Wheeler’s office to discuss the above-referenced proceeding. David Goodfriend, Habiba Alcindor, Bradley Blakeman, Mark Walsh, and Phillip Berenbroick attended the meeting on behalf of SFC. John Breyault attended on behalf of NCL. Chairman Wheeler’s office was represented by Philip Verveer, Senior Counselor; Maria Kirby, Legal Advisor; and Brad Revare, Legal Intern.

Separately, David Goodfriend, Habiba Alcindor, and Phillip Berenbroick of SFC met individually with Ruth Milkman, Chief of Staff for Chairman Wheeler; Clint Odom, Policy Director for Commissioner Rosenworcel; and Louis Peraertz, Legal Advisor to Commissioner Clyburn.

SFC aligned itself with the views recently expressed by Senators Blumenthal and McCain and encouraged the Federal Communications Commission (“Commission”) to act quickly to repeal the sports blackout rules.¹ SFC explained that the Commission may find it prudent to sunset the rules by a date certain, but that it should not delay taking swift action on a final Order that would ultimately eliminate the sports blackout rules.

SFC reiterated its view that the Commission’s sports blackout rules are obsolete and unnecessary, anti-consumer, and do not serve the public interest. Further, there is strong bipartisan support for eliminating the sports blackout rules. The Response of Sports Economists shows, contrary to claims by the NFL, the threat of sports blackouts affect very few fans in only

¹ Letter from Sens. Blumenthal and McCain to Thomas Wheeler, Chairman, Federal Communications Commission, MB Docket No. 12-3 (June 2, 2014).

a handful of locations, thus do not significantly increase the NFL's revenue.² Further, the Commission's sports blackout rules are unnecessary because professional sports leagues, like the NFL, can rely on market forces to negotiate with cable and satellite television providers to continue their sports blackout policies. The NFL maintains privity of contract with cable and satellite providers through carriage agreements for the NFL Network and can negotiate with these providers to continue to blackout games after the sports blackout rules are eliminated.

SFC also explained that the sports blackout rules are unnecessary because federal copyright statutes offer significant protection to the sports leagues. Specifically, the Copyright Act of 1976 ("Copyright Act"), which was enacted after the adoption of the Commission's cable sports blackout rule, dissuades cable providers from circumventing blackouts.³ In 1988 Congress made these provisions of the Copyright Act applicable to satellite carriers.⁴ SFC concluded, therefore, that these copyright protections render the sports blackout rules obsolete.

NCL argued that eliminating the sports blackout rules is a consumer fairness issue. Taxpayers and consumers who pay to build, renovate, and maintain NFL stadiums should have fair access to live events in those venues. Ticket prices for NFL games are already astronomically high,⁵ and the Commission's sports blackout rules serve as a government subsidy that harms fans by cutting televised access to games the ticket buying public has determined are too expensive to attend in person.

In response to questioning by staff from the Chairman's office, SFC asserted that repeal of the sports blackout rules will not result in the migration of NFL games off broadcast TV. NFL games are the most widely viewed programming on television. The financial incentives for the NFL to keep its games on broadcast TV are too lucrative for the league to forego.

The rules do not serve the public interest, are unnecessary, and have little economic impact on the continued viability of professional sports leagues. Thus, the Commission should act quickly to repeal the sports blackout rules.

² See Reply Comments of Sports Fans Coalition, Inc., Attachment, MB Docket No. 12-3, at 6-8 (filed Mar. 25, 2014).

³ See 17 U.S.C. § 111(c).

⁴ See *id.* § 111, 119.

⁵ See Melanie Hicken, *The high cost of being a football fan*, CNN MONEY, Sept. 7, 2013, available at <http://money.cnn.com/2013/09/07/pf/football-prices/> (explaining that "the cost of actually going to a game has gotten much too pricey for many fans," with ticket prices climbing over 50% and parking prices doubling over the last decade) (citing TEAM MARKETING REPORT (Sept. 2013), available at <https://www.teammarketing.com/public/uploadedPDFs/nfl%20fci%2014.pdf> (noting that the average NFL ticket for the 2013 season cost \$81.54 and the average cost for a family of four to attend a game was \$459.65)).

Pursuant to Section 1.1206(b) of the Commission's rules, I am filing this notice electronically in the above-referenced docket. Please contact me with any questions.

Respectfully submitted,

/s/_____

David Goodfriend
Chairman
Sports Fans Coalition

Cc: Philip Verveer
Maria Kirby
Ruth Milkman
Clint Odom
Louis Peraertz