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September 19, 2014

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

Re: *MB Docket No. 12-3 -- Ex parte meeting*

On September 17, 2014, Adolpho Birch III, NFL Senior Vice President of Labor Policy and Government Affairs, Ken Edmonds, NFL Director of Government Relations, and the undersigned, met with Chairman Wheeler and Maria Kirby, Legal Advisor to Chairman Wheeler, to discuss the League's blackout policy and the Commission's blackout rule. NFL representatives explained that the League's stadium policy serves to balance the two objectives of maximizing the in-stadium experience and engaging our fans through various media platforms. They stated that during the course of this proceeding the League has examined closely its blackout policy, has considered changes and has adjusted the policy to work with the clubs to make blackouts exceedingly rare, and believes that the policy remains important. They said the Commission's rule is part of the structure that has guided the League's media policy over the years and has resulted in all regular season and playoff games made available to local fans on free over-the-air television, and that Congress and the FCC consistently have found the goal of promoting sports on free television to be in the public interest.

NFL representatives then explained that the League is not able to accomplish the goal of controlling its content on broadcast television due to the compulsory copyright license and the lack of contractual relationships with key parties, namely the local broadcast stations and the pay-TV distributors. We cited unrefuted evidence in the record, including the Declaration of Brian Rolapp, Chief Operating Officer of NFL Media,<sup>1</sup> that the NFL has (i) no contractual relationship with the local broadcast stations, and (ii) no contractual relationship with the MVPDs concerning distribution of games on broadcast television, and thus has no ability to "solve the problem in the marketplace" as some have claimed. Because of this lack of contractual relationships, the Commission as a factual and legal matter cannot claim that the rule is no longer needed because the League can achieve its objectives by contract.

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<sup>1</sup> Declaration of Brian Rolapp, at ¶¶ 3-5, appended to Comments of National Football League, Docket 12-3 (Feb. 24, 2014).

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Lastly, we discussed the historic trend of blackouts and how the impact of gate receipts has decreased but remains important, and stressed that Congress and the Commission have long recognized the twin objectives of gate receipts and promoting sports on free broadcast television as supporting the rule. Given no other sport remains on free broadcast television during the regular season, the Commission should weigh carefully changes to the current structure. In that context, we also discussed Commission authority to regulate blackouts and the limitations of Commission authority over content suppliers and broadcast networks.

Please direct any questions to the undersigned.

Sincerely,



Gerard J. Waldron  
*Counsel to National Football League*

cc: Chairman Tom Wheeler  
Ms. Maria Kirby  
Commissioner Clyburn  
Commissioner Pai  
Commissioner Rosenworcel  
Commissioner O'Rielly