

FCC Seeks Comment on Elimination of the Sports Blackout Rule

February 2012

On January 12, 2012, the Federal Communications Commission (FCC) released a Public Notice seeking comment on a proposal to eliminate its sports blackout rules, which prevent cable and satellite providers from carrying professional sporting events when local broadcast stations are required to blackout the events pursuant to contracts with the NFL and other leagues.

The Notice was issued in response to a Petition for Rulemaking filed in November by a coalition of consumer and public interest groups, including the Sports Fans Coalition and the Media Access Project. The petitioners contend that, particularly when combined with high unemployment rates and high ticket prices, the blackout rules prevent consumers from accessing local sporting events. The petitioners also argue that the rules are unnecessary because sports leagues could privately negotiate with cable and satellite providers to achieve the same results as the rule affords.

FCC Commissioner Robert McDowell issued a statement supporting the proceeding, hinting that the rule, now 36 years old, is outdated given the "dramatic evolutions" in the "economics and structure of both the sports and communications industries" that have occurred since the rule was first implemented.

The National Association of Broadcasters (NAB) submitted comments in support of the rule, arguing that its elimination would hurt "local broadcasters and localism" and "could accelerate the migration of popular sports programs from free to pay TV." NAB argued that sports blackouts "stem from privately negotiated agreements" and not from the FCC's rules, so "there is no evidence that elimination of the FCC's rules will alter those private contractual agreements,

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eliminate the relatively few blackouts that occur, or cause sports leagues to lower ticket prices.”

Comments were due on February 13, 2012, and replies are due on or before February 28, 2012.

** Not admitted to the DC and/or Virginia bar. Supervised by the principals of the firm.*