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94-56 TV BLACKOUT OF SPORTING EVENTS

GOVERNMENT
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HEARING BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS OF THE COMMITTEE ON COMMERCE UNITED STATES SENATE NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 2554

TO AMEND PUBLIC LAW 93-107 WITH REGARD TO THE
BROADCASTING OF CERTAIN PROFESSIONAL SPORTS
CLUBS' GAMES

NOVEMBER 21, 1975

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TV BLACKOUT OF SPORTING EVENTS

FRIDAY, NOVEMBER 21, 1975

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON COMMUNICATIONS,
Washington, D.C.

The subcommittee met at 10 a.m. in room 5110, Dirksen Senate Office Building, Hon. J. Glenn Beall, Jr., presiding.

OPENING STATEMENT BY SENATOR BEALL

Senator BEALL. The subcommittee will come to order.

The subcommittee meets today to hold hearings on S. 2554, a bill to amend Public Law 93-107 with regard to the broadcasting of certain professional sports clubs' games. This bill would extend for 3 years the so-called sports antiblackout law which is presently embodied in Public Law 93-107 and due to expire on December 31, 1975.

Public Law 93-107 amended the Communications Act of 1934, by adding a new section 331. Section 331 provides that if any game of a professional football, baseball, basketball, or hockey club is to be televised pursuant to a league television contract, and all tickets for seats made available 120 hours (5 days) or more before the scheduled beginning time of the game have been purchased 72 hours (3 days) or more before such time, no so-called blackout agreement preventing the televising of such game at the same time and in the area in which the game is being played will be valid or have any force or effect.

The considerations which prompted the enactment of Public Law 93-107 were relatively simple. In the judgment of the Congress, professional football, baseball, basketball, and hockey clubs had greatly benefited from prior legislation providing an antitrust exemption for their league pooling of game telecast rights. It was therefore considered both reasonable and in the public interest to require in return that soldout games of such clubs televised pursuant to that exemption be made available for telecast in the areas in which those games would be played.

There were, however, arguments that any antiblackout law would have a long-run detrimental impact on the economic well being of the professional sports. The Congress therefore provided for a 3-year trial period and a continuing study and annual reports by the Federal Communications Commission (FCC) on the effect of the legislation.

The FCC is here this morning to testify with regard to the two

Staff members assigned to this hearing: Joseph R. Fogarty, Nicholas Miller, and James Graf.

annual reports which it has submitted to Congress. At this point, however, it is pertinent to note that those reports have concluded there is no evidence that the sports clubs themselves have sustained economic injury as a consequence of the legislation. On the other side, the reports have detailed the clear and substantial benefit to the public of having access to local telecasts of soldout home games.

Recognizing the possibility that various factors may have precluded a full and certain evaluation of the effect of the law, the bill before the subcommittee today provides for a 3-year extension of the basic antiblackout law, and would also continue the monitoring and annual reports by the FCC so that objective data, analysis, and findings with respect to the effect of the legislation will be available in the future.

The bill before the subcommittee contains one modification of the existing law. While the 72-hour cutoff time is retained for regular season contests of all sports and for the single postseason playoff and championship games of professional football, the bill provides for a 24-hour sellout cutoff for the postseason playoff and championship series games of professional baseball, basketball, and hockey.

We're delighted that everybody is here today and it's an unusual privilege for me to have the opportunity of recognizing the distinguished chairman of the Senate Commerce Committee and I'm happy to recognize Senator Magnuson who allows me the privilege of presiding at this hearing this morning.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. I'm glad because you have done a lot of work on this subcommittee in relation to this law.

Today the Subcommittee on Communications will hold hearings on S. 2554, a bill to amend Public Law 93-107 with regard to the broadcasting of certain professional sports clubs' games.

This legislation would extend for 3 years the so-called sports antiblackout law presently embodied in Public Law 93-107 and due to expire on December 31, 1975. The bill would also amend the existing law to provide for a 24-hour sellout cutoff for postseason series playoff and championship games.

When Congress first enacted the sports blackout bill, there were arguments raised by the professional sports leagues that the law would have a long-run detrimental impact on the economical well-being of professional sports. Congress decided that a 3-year trial period was appropriate to look at the impact of the blackout law on the economic welfare of professional sports. Congress required the FCC to file annual reports on the effect of the legislation.

The legislation proposed today continues the blackout experiment for another 3 years and requires continued FCC study of the impact of the blackout. Personally, I believe this is the sensible course. It appears to me that the data collected over the last 2 years has not been adequate to resolve conclusively all of the arguments surrounding the sports antiblackout law. I believe the healthy professional sports industry is in the public interest and that professional sports should be made as broadly available to the general public as possible. At the same time, it is certainly not in the long-run interests of sports fans to permanently injure the economic welfare of professional sports.

I hope that witnesses here today will address three basic questions which have been raised concerning the sports blackout law. Has the sports blackout law affected the number of no-shows who have purchased a ticket and then do not attend the game? What has the effect of no-shows been on ancillary income to the stadium authorities who rely on this income to retire municipal bonds which funded the facilities? And, are no-shows likely to result in either increased television revenue or decreased future ticket sales.

The city of Seattle and King County have recently completed the finest sports complex in the United States. Completion of this stadium and recent awards of professional sports franchises are the culmination of a long hard fight to get popular professional sports into the Seattle metropolitan area. In the process, the county and city officials have tried to minimize the costs to taxpayers in bringing this important and worthwhile new enterprise into the city. Those officials have expressed to me their personal concern that any policy which substantially increases the number of no-shows could significantly increase the cost of the stadium to the general taxpayer.

John Spellman, King County executive, has told me :

In approving this (stadium) bond issue voters pledged a real estate millage tax confident that tenancy by the National Football League and other professional sports enterprises would provide revenues to match operating costs.

Now, it would appear, congressional action may dilute not only the value of the season tickets, both presently and for years to come, but also upset the fragile balance of stadium revenues—revenues essential to vindication of citizen concern that King County Stadium balance its operating budget.

While King County Stadium will not begin operation until March of 1976, and, thus, we are not able to quote exact figures of operation, there is enough evidence from similar buildings to indicate that extension of the television "blackout" rule would considerably diminish stadium revenues from concessions, parking, and rental fees lost by the decline of future ticket sales.

I hope the witnesses today will address themselves to this issue and the overall problem of no-shows for local stadium authorities. At the same time, I fully support the judgment made by Congress that professional football, baseball, basketball, and hockey clubs have greatly benefited from preferential legislation providing an antitrust exemption for their league pooling of game telecast rights. It is certainly in the public interest to require local telecast of sold out games subject to this exemption if such a telecast will not increase the economic burden on local taxpayers or injure the long-term health of the sport.

[The bill follows:]

94TH CONGRESS
1ST SESSION

S. 2554

IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 1975

Mr. PASTORE (for himself and Mr. BEALL) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To amend Public Law 93-107 with regard to the broadcasting of certain professional sports clubs' games.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of Public Law 93-107 (87 Stat. 351) is
4 amended by striking out "December 31, 1975" and inserting
5 in lieu thereof "December 31, 1978".

6 SEC. 2. Section 331 of the Communications Act of 1934
7 (47 U.S.C. 331), as added by Public Law 93-107 (87
8 Stat. 350), is amended by—

9 (1) amending subsection (a) thereof in the first
10 sentence thereof by inserting after "sports club" and
11 before "is to be" the following: ", other than a post-

1 season game of a professional baseball, basketball, or
2 hockey club,";

3 (2) amending subsection (a) thereof by inserting
4 at the end of the first sentence thereof the following new
5 sentence: "If any postseason game of a professional
6 baseball, basketball, or hockey club is to be broadcast
7 by means of television pursuant to a league television
8 contract and all tickets of admission for seats at such
9 game which are available for purchase by the general
10 public have been purchased twenty-four hours or more
11 before the scheduled beginning time of such game, no
12 agreement which would prevent the broadcasting by
13 means of television of such game at the same time and
14 in the area in which such game is being played shall be
15 valid or have any force or effect."; and

16 (3) amending subsection (c) thereof by inserting at
17 the end thereof the following new paragraph:

18 "(5) The term 'postseason game' means any game
19 which is played by a professional sports club (A) after the
20 conclusion of such club's regular season, and (B) in order
21 to determine or in the course of determining the champion-
22 ship of the sport in which such club is engaged."

Senator BEALL. Thank you, Mr. Chairman.

The first witness this morning is the Honorable Robert E. Lee, who is a Commissioner of the FCC.

Commissioner Lee, we are happy to welcome you before the committee and receive the testimony which you may give in full or in summary with your full statement appearing in the record, which ever you choose.

STATEMENT OF HON. ROBERT E. LEE, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

Mr. LEE. Thank you very much, Mr. Chairman, and members of the subcommittee.

Because of a prior commitment to attend our regional meeting with the public in San Francisco, Chairman Wiley asked me to represent the Commission before you today. I appreciate your invitation to testify and I will be happy to present the Commission's views on S. 2554.

On September 14, 1973, Congress enacted Public Law 93-107, the "antiblackout" law. Before its enactment, many professional sporting events were the subject of local television "blackouts" imposed by various leagues on the theory that they were necessary to preserve and promote live game attendance. It was the judgment of Congress that legislation prohibiting such blackouts was justified because professional sports clubs received substantial benefits from exemptions for certain of their activities from the antitrust laws. Congress believed that, in light of these benefits, it was not unreasonable to require, in return, that sold out games of such clubs televised pursuant to league-network television contracts be made available for local television. However, because of concern that the lifting of local blackouts might cause some long-term economic injury to professional sports, Congress provided that the antiblackout law would be repealed effective December 31, 1975.

S. 2554 would extend the sports antiblackout law for an additional 3 years. Additionally, the present 72-hour sellout time would be changed to 24 hours for professional baseball, basketball, and hockey postseason games since playoff and championship games for these sports necessarily involve uncertainties as to the number of games, dates, teams, and scheduling.

Mr. Chairman, the Commission supports the goals of such legislation. We believe that it is consistent with our mandate under the Communications Act "to promote the larger and more effective use of radio in the public interest." Furthermore, we believe that this legislation is justified. Our studies, compiled at the direction of Congress, have not revealed that the antiblackout law has had any adverse effect on organized sports.

I would like to focus my attention upon our 1975 report, which was delivered to your subcommittee. With respect to professional football, this report is much more complete than our 1974 report and should be of value to the subcommittee. The 1974 report dealt with the 1973 season, which was about to start when Public Law 93-107 was enacted and season ticket sales had largely been completed. Also, much of our data was somewhat preliminary. However, even as to our 1975 report,

a number of factors should be kept in mind in evaluating the effect of the law. Senator Pastore pointed out when he introduced S. 2554, that the 1974 football season was affected by such things as the NFL players' strike, the general decline in the state of the economy, and the competitive threat of the World Football League.

During the 1974 regular season, the antiblackout law resulted in 86 home games being televised locally plus six of the seven postseason games (including the Super Bowl). This contrasts with 109 regular season games telecast locally during the 1973 season, plus five postseason games. In the 1972 season, before the passage of Public Law 93-107, the local blackout was voluntarily lifted for only one game—the Super Bowl between Miami and Washington at Los Angeles.

Although no-shows, persons with tickets who don't actually attend the game, increased in 1973 and 1974, there is no indication that professional football is about to become a studio sport. Indeed, given the players' strike and the general state of the economy, plus the competitive threat of the World Football League, the NFL would appear to have had a good year in 1974 so far as regular season attendance was concerned. Actual attendance, after deducting no-shows, declined by only 6.14 percent from 1973 to 1974, going from 9,707,943 to 9,112,160. The actual attendance in 1972, after deducting no-shows, was 9,821,141—the third highest ever. In 1972, however, Dallas did not report no-shows, so the accurate actual attendance figure must be somewhat below that. In addition, no law was in effect in 1972 which had any bearing on no-shows; therefore, the 1972 figures may be less accurate than the figures for 1973 and 1974, since much more attention was paid to no-shows because of Public Law 93-107. Without making allowance for these factors, actual regular season attendance in 1973 was only 113,198 fewer than 1972—or 1.15 percent—and in 1974 was down by 708,981 over 1972—or a 7.22 percent reduction.

Regarding the no-show figures, our study indicates that precipitation and team standings are much more important influences on the number of no-shows than is the antiblackout law. Precipitation explained 46 percent of the variation in no-shows. In contrast, the lifting of the blackout indicated only a 2.2 percent increase in no-shows. With regard to the lifting of the television blackout on season ticket sales, it was found that the number of games televised locally had no statistically significant effect.

Because of adverse economic conditions affecting all sectors of the economy, it is not possible to say what impact, if any, the antiblackout law had on concessionaires. Data supplied by the NFL were mixed. Sales of "PRO" magazine were most affected.

Some radio stations suffered serious ratings losses when home games were televised locally because of the antiblackout law. Several of these were compensated, at least in part, by rebate payments from nine NFL member clubs. Where there was no television substitute, radio broadcasting of professional football remained strong. In the case of the nine clubs that imposed the blackout on all home games, there can be little claim that radio ratings have been hurt.

There is also no indication that Public Law 93-107 has had any effect on professional baseball, or that some effect might be expected in the foreseeable future. During the 1974 season, the first complete professional baseball season during which Public Law 93-107 was in

effect, the only league television contract was one with NBC pursuant to which the world series, the National and American League championship series, the all-star game, the Saturday afternoon "Games of the Week," and 15 mid-season Monday night games, were nationally telecast. The contract affirmatively required NBC to telecast the world series and all-star games nationally without any blackouts and without regard to sellouts. These games were not, in fact, blacked out in any area of the country. Although not contractually proscribed, there were no blackouts of the 1974 league championship series. Thus, Public Law 93-107 had no impact on these games during the 1974 season.

The Monday night and Saturday "Games of the Week," telecast by NBC, were blacked out in the home territories of both teams playing in such games, as was required by the league contract. In each case, a backup game between two other major league teams was telecast in the two cities affected. None of these games were sold out at least 72 hours in advance of game time and Public Law 93-107, therefore, had no effect upon the telecasts.

Our conclusions with respect to professional basketball and professional hockey also indicated either no impact or minimal impact from Public Law 93-107 because of the relatively small number of games falling within the scope of the law.

As you know, Mr. Chairman, the Commission has also testified in support of H.R. 9566 which would make the existing sports antiblackout law permanent. Our studies have led us to the conclusion that the antiblackout law has had no adverse effect on organized sports and that the public has benefited from it. However, the ultimate judgment of the public policy implications and the economic health of the professional sports involved, as well as the decision whether to extend the law for 3 years or to make it permanent is one for the Congress.

That concludes my prepared testimony. I would be pleased to answer any questions.

Senator BEALL. Thank you, Commissioner Lee.

Do you think that the FCC's analysis would benefit from additional information in future seasons? Do you think we should continue to monitor the effect of the sports antiblackout law?

Mr. LEE. Yes, I believe so. The more data you have, the more conclusive evidence you will have; but based on what we have so far, it seems indisputable to us that there is any real harm.

Senator BEALL. I have heard that the Commission would like to have a reporting date other than April 15.

Mr. LEE. We would appreciate it, but we will meet whatever requirements the Congress of course imposes on us; but it is a little bit of a burden to us and I'm sure it is to the league as well, and perhaps another 60 days might be of benefit to all concerned. It might make it possible for us to prepare a more comprehensive report to send you, too.

Senator BEALL. Have the various leagues cooperated with the FCC in providing the kind of information that's necessary for you to develop your analysis?

Mr. LEE. They have been somewhat reluctant to give us some data. I don't understand why. I suppose there's a fear that the Government is intruding into a new area. They have declined to furnish us with financial data, that sort of thing, although I must say in the last few

days we did get some additional information that was in dispute for some time.

Senator BEALL. Have they furnished you attendance figures without any difficulty?

Mr. LEE. Yes.

Senator BEALL. Have they furnished you the collateral or financial data, for instance, receipts from concessionaires and those sorts of people?

Mr. LEE. We have some figures that are detailed in this report that you have.

Senator BEALL. Is that the kind of information that you have had difficulty in getting?

Mr. LEE. I'm not aware that we had any difficulty in getting that particular information. They are bulk figures. We at the Commission appreciate the reluctance of furnishing financial data and while on the one hand we could give you a better analysis because the bottom line is dollars obviously, we respect financial figures. We have a lot of experience with this in the broadcast field, and we guard them very closely because they are of a competitive nature. It's for that reason, I suppose, that we have been somewhat reluctant to take the ultimate subpena power step.

Senator BEALL. Mr. Chairman.

The CHAIRMAN. You say in your statement that the Commission has also testified in support of the House bill?

Mr. LEE. Yes.

The CHAIRMAN. Which was a permanent bill?

Mr. LEE. Right.

The CHAIRMAN. And also in your testimony you say you support this bill, the Senate bill?

Mr. LEE. Yes.

The CHAIRMAN. Which one do you actually support?

Mr. LEE. What we're saying is that we feel that this might be more properly a matter for congressional policy. I, myself, could personally support the 3-year bill.

The CHAIRMAN. Did the Commission ever have a meeting and formally endorse either bill?

Mr. LEE. Yes.

The CHAIRMAN. You had a discussion about it?

Mr. LEE. Yes. We had a discussion and we, of course, endorsed the House bill. That was before we knew about the Senate bill, and I assume we would have said the same thing.

The CHAIRMAN. You had to testify on the House bill first, didn't you?

Mr. LEE. That's right.

The CHAIRMAN. So you had to make up your mind there?

Mr. LEE. Right.

The CHAIRMAN. And you don't mind being flexible about the Senate bill, do you?

Mr. LEE. Not a bit, sir. No, sir.

The CHAIRMAN. How did you obtain the financial data on the National Football League contained in your report? Did you go into each club separately or did you get it from Mr. Rozelle's office?

Mr. LEE. We operate through Mr. Rozelle's office.

The CHAIRMAN. And he has the responsibility to gather the information you ask for, including the individual team economic and financial data which comprises the overall league picture?

Mr. LEE. Right.

The CHAIRMAN. You wouldn't approach an individual club, would you?

Mr. LEE. No. We're interested in—well, it's part of the breakdown. We must analyze it by games because we must consider local factors such as the weather. You'll find in the report one game where there's something like 46 percent, I believe, no-shows, but the weather on that particular day was intolerable.

The CHAIRMAN. Well, I'll also ask Mr. Rozelle, but how do you count no-shows? Is it when the game starts or at half time? When do you go around and pick out the empty seats?

Mr. LEE. Well, I don't know how they count them.

The CHAIRMAN. Well, the game has to start first before you can say there's a no-show.

Mr. LEE. That's right.

The CHAIRMAN. Maybe you give them 15 minutes to—

Mr. LEE. What is a no-show? I have tickets to the Redskins games and one of the determinations I make as to what tickets I won't use is the time. For example, Sunday night at 9 o'clock is one game that's on the network for the west coast. There's no way I'm going to go to a game on Sunday night at 9 o'clock and get home at 1 o'clock.

The CHAIRMAN [continuing]. I know some people who—

Mr. LEE. However, I give the tickets away. They are not really no-shows and I see some volunteers up there.

The CHAIRMAN [continuing]. I know that some people go to see only the second half sometimes, but they are very few. Let me ask this. Did you find any correlation in your studies between the weather and no-shows?

Mr. LEE. Yes, very substantial. That has an immense impact on it. I have here an NFL attendance weekly summary. There was Green Bay at Baltimore, 8 percent no-shows. The weather was sunny. In the Kansas City game there were 46 percent no-shows. I can't put my finger right on it, but it was stormy and cloudy. Our nomenclature runs to sunny, rain early, partly cloudy, stormy and so on.

The CHAIRMAN. Do you find any correlation between open and domed stadiums as far as the effect of weather on no-shows?

Mr. LEE. That's a new one on me.

The CHAIRMAN. You don't have that information?

Mr. LEE. I haven't really analyzed that. We plead ignorance.

The CHAIRMAN. I'll put it this way. Would the weather have the same effect on no-shows if the stadium is domed as it would if the stadium is open?

Mr. LEE. Of course not, except the problem of getting there and parking.

The CHAIRMAN. I remember reading some time ago about a game in Atlanta. They had an unusually heavy snow storm, freezing and everything else, and there was a large number of no-shows because of the weather.

Mr. LEE. Yes. I think on a summary basis it's very hard really to pinpoint no-shows because of this bill. I think that if it were possible

to analyze the people who do not go to the game—well, of course my experience is in Washington—you just always give them away. Somebody shows up although you might find it convenient to stay home. I had a little addendum prepared this morning to my statement that I would like to submit for the record.

Senator BEALL. Is that on 1975?

Mr. LEE. This is on 1975.

Senator BEALL. I was going to ask you about 1975.

Mr. LEE. Fewer games have been televised locally this year than last year. Another conclusion is that, in all categories of games, there are fewer no-shows and paid attendance is up, so far this year the league states 5,800,000 tickets have been sold for NFL football. The comparable figure for the first 8 weeks of last year was 5,760,000. It's up about 60,000—not dramatic. These particular figures are complete through November 10, 1975, representing the first 8 weeks of regular season play.

There's another interesting observation we have made from these studies and that is, as the season goes on, as it progresses, in particular areas, the no-shows will increase.

The CHAIRMAN. Is that correlated with the weather?

Mr. LEE. I conclude that by the 9th or 10th week you know who the winners are likely to be and some interest is lost in the losing teams.

The CHAIRMAN. Well, now, you have an addition here to your statement. Will you put that in the record?

Mr. LEE. Yes, sir. I have it right here.

[The addendum follows:]

ADDENDUM

The Commission has been receiving some game information from the NFL on a weekly basis. This information is now complete through November 10, 1975, representing the first eight weeks of regular season play. While we have not been able to fully analyze this data, and while it does represent only just over half of the season, it does seem to indicate the following:

1. *Fewer games have been televised locally this year.*—During the first eight weeks last year, a total of 48 games were televised locally, whereas for the same time frame this year, 41 games have been televised. This represents a drop of seven games. We cannot at this time determine whether this drop is because of the League's failure to offer the game due to its failure to "sell out" or because of the local broadcaster's failure to carry it after it had been offered.

2. *In all categories of game, there are fewer no-shows.*—Of the games televised locally, there have been 60,955 fewer no-shows this year than during the same time period last year. The tentative conclusion that can be drawn is that more people that have tickets are opting to see the game "live" rather than on local television. Of the games that were blacked-out, there have been 42,972 fewer no-shows this year than during the first eight weeks of last year. It is possible to conclude from this figure that more people that have the tickets are opting to see the game rather than listen to it over radio or watch another game on television.

3. *Paid attendance is up.*—So far this year, the League states that 5,823,567 tickets have been sold for NFL football. The comparable figure for the first eight weeks of last year was 5,763,079. Therefore, 60,488 more tickets have been sold so far this year than last. It is important to note, however, that this figure represents individual game ticket sales. We do not profess to dispute the League's season ticket sales figures.

The CHAIRMAN. And your first conclusion was fewer games had been televised locally this year and you don't seem to know why that happened? It drops from 48 to 41.

Mr. LEE. It's an average thing. Some have increased and some have decreased, and there has been at least one instance I'm aware of where the local broadcaster did not want to broadcast the game. He's under no legal obligation. That would create a great problem if we were to force him to carry a game. The broadcaster has a right not to carry it if it's offered to him.

The CHAIRMAN. In the final analysis, doesn't the performance of the team itself relate more directly to the attendance at the game than does whether or not it's on television?

Mr. LEE. Yes. I don't think anybody would dispute that.

Senator BEALL. I happen to be a Baltimore Colt fan and I notice when the Colts—

The CHAIRMAN. I never knew that about you.

Senator BEALL. There haven't been any home Colt games televised recently because they haven't been able to sell out the stadium and the reason they haven't sold out the stadium is because they haven't done as well as some of us had hoped they might. As their record improves, the stadium will sell out and when the stadium sells out we will have home game television.

Mr. LEE. This is a personal opinion. The more any sport is televised, the more interest develops nationally and the more people like the experience of seeing the thing live—the carnival spirit and so on. You just like to go. You might wait for a good day, but I'm sure there is additional attendance that is being accounted for by more television coverage.

The CHAIRMAN. Now you indicated in your statement, if I recollect correctly, that there has been some impact on radio broadcasters because of—I assume it's an adverse impact—because of the availability of the games to local television.

Mr. LEE. Right.

The CHAIRMAN. Has this impact been widespread and, second, has there been a beneficial impact on the television broadcasters as a result of the availability of home games?

Mr. LEE. Yes. I suppose when the Redskins won in the overtime with Dallas the local stations here had everyone who was mobile looking at them and—

The CHAIRMAN. And some who weren't.

Mr. LEE [continuing]. There certainly was a definite benefit to the broadcasters there. On the radio side, I think naturally most people would rather look at the game on television than listen to it on radio. Radio stations have suffered, but they have been given some rebates. As far as I know, they have been treated reasonably, and I don't know of any particular squawk.

The CHAIRMAN. Well, how has this impacted the clubs themselves? Am I to assume that the radio revenues to the clubs have been decreased in the cases where the law has resulted in local telecasts of their home games, and, conversely, that television revenues have increased?

Mr. LEE. As I understand, the television contracts on football, NFL—and I'm not sure because I have never seen a contract. The contracts are between the networks and the league rather than the teams and there's no additional revenue. It's sort of built into a package. The deal is made whether the games are broadcast or not and there's no additional revenue to the team from that.

The CHAIRMAN. How does that operate? If a local radio station has been broadcasting the home games of a club, and the law makes those games available for local telecast, what can the radio station do? Can it get a rebate?

Mr. LEE. I really don't know.

The CHAIRMAN. Well, Mr. Rozelle can tell us that.

Mr. LEE. I think so.

Senator BEALL. I have been advised by the staff that these contracts are up for renegotiation before 1977. Are we to assume that at that time one consideration would be the fact that now some of these games are available for home telecasts and this would affect the amount of revenue that would be available to the club?

Mr. LEE. Yes, it certainly would be a part of the negotiations. It should be.

The CHAIRMAN. I have no further questions. I think that the Commission has done as good a job as they can do in this particular field. It's hard to get all the necessary facts and data, but I think the FCC should continue to monitor the effects of the law. The Senate bill would continue this responsibility, and I think that is desirable.

Mr. LEE. I think I would support that personally because, while from all the available figures that I have seen, I see no reason why, for example, the League couldn't do this voluntarily to save us all a lot of trouble. But in fairness to them, this is one man's opinion and I don't think a look for another 3 years would hurt that much.

The CHAIRMAN. The local attendance of baseball games is suffering quite a bit if the home team is not doing very well. The fans can tune in a distant game just as easy.

Mr. LEE. Sure. It's on television.

The CHAIRMAN. I guess basketball playoffs are on television, too.

Mr. LEE. I'm really not expert there either. You'll have to ask somebody else. At my age, I don't even play pool.

The CHAIRMAN. So I would think that maybe the FCC ought to have this extra time because you should have a cold, hard opinion about permanency. You have to have a lot of background and a lot of data to come to the right conclusion.

Mr. LEE. Yes. On the extension of the reporting time, I will certainly clear this with the Commission, but I'm sure they will support it.

Senator BEALL. Thank you, Commissioner Lee. We are pleased to have you this morning. I want to second the comments about you that Senator Magnuson made regarding the job the Commission has done in this area. You have provided us with useful statistics and we follow them. We appreciate your testimony.

Mr. LEE. Thank you very much.

Senator BEALL. Our next witness is Mr. Pete Rozelle, the Commissioner of the National Football League. We are happy to have you and your associates. We welcome you once again to the committee.

STATEMENT OF PETE ROZELLE, COMMISSIONER, NATIONAL FOOTBALL LEAGUE; ACCOMPANIED BY PAUL TAGLIABUE, COUNSEL

Mr. ROZELLE. I have with me Mr. Paul Tagliabue, my counsel.

Senator BEALL. You may proceed with your statement.

Mr. ROZELLE. Thank you, Senator.

My name is Pete Rozelle and as the commissioner of the National Football League I'm appearing on behalf of the league's member clubs.

We appreciate the subcommittee's invitation to present our views concerning the effects of Public Law 93-107 on the NFL.

This law, enacted on an experimental basis for 3 years in 1973, has little or no application to the other professional sports. However, we believe that the harm to professional football is already apparent and that these effects will become increasingly more obvious as the years pass.

The first year of the law, 1973, was not representative inasmuch as it was enacted after ticket sales for that season had been virtually completed. Total data for 1975 cannot be available, naturally, until the season is over.

In our judgment, the information that is available supports our original position that the law would progressively erode season ticket buying interest and also have an adverse effect on other parties.

We cannot avoid a deep concern about the future vitality of our sport when we review the following facts:

1. The number of no-shows (those who have purchased a ticket and do not attend the game) almost doubled—624,686 to 1,124,162—from the season preceding the enactment of the law, 1972, to the second year under the law, 1974.

2. There has been a total decrease of 150,674 season ticket sales since 1973 and 55 percent of the total decrease comes from teams who had been forced to regularly televise their home games during 1973 and 1974.

3. The 1975 season to date has resulted in the fewest number of soldout games for a comparable period of the season since 1970, the year when the present alinement of NFL clubs was implemented.

4. NFL clubs have lost an estimated \$500,000 in radio rights income over the past 2 years due to the competing telecasts of home games. Radio stations carrying these games have suffered decreased advertising revenue of approximately \$1,200,000 over the same period and these losses are certain to be reflected in their new contracts with the clubs.

5. There is no indication that losses in ticket sales and radio rights income will be made up by increased television revenue. Average ratings have remained about the same since the law went into effect. Taking the year 1972, the first year before the law, and the 2 years since the law, 1973 and 1974, we find that CBS in 1972, the year before the law, had an average season rating on all the games they carried of 14.6; whereas in 1974, slightly less, 13.7. NBC, on the other hand, the first year before the law, the average for all games was 13.6 Neilson rating, up slightly in 1974 to 14, after a slight drop in 1973 of 13.2.

There have always been no-shows in professional football. They have resulted from such factors as adverse weather conditions, losing records, and a desire to watch another game being televised that day. But when the number of no-shows increase by almost 100 percent following enactment of the law and there are an unprecedented 48,000 ticket purchasers not attending a specific game, it is cause for great alarm, at least on our part.

Perhaps the most startling example of no-shows occurred at Miami in 1973. The previous season the Dolphins had set an NFL record by winning 17 straight regular and postseason games, including the Super Bowl, for a perfect season. No other team in the history of the NFL had achieved this remarkable feat.

During 1972 the Dolphins had a total of 20,567 no-shows and there was no requirement for the local televising of their soldout home games. However, coming off that record season and having sold out their 1973 season tickets the Dolphins had a total of 117,611 no-shows (an increase of 485 percent over 1972) when they had all of their home games televised as required by Public Law 93-107. All games were played in good weather and the Dolphins had a regular season record of 12 and 2 and further went on to win another Super Bowl.

That record no-show figure dropped to 88,633 in 1974 when the Dolphins had only three home games televised. That there is a direct relationship between the number of no-shows and the number of games locally telecast is clearly evident.

Our concern about no-shows is that they become "nonfans." Few individuals will continue purchasing a product they find they are not using.

We feel that proof of this can be found in the downward trend of team season ticket sales that began for the first time in modern history in 1974—a year after Public Law 93-107 went into effect. There has been a total decrease of 150,674 season tickets sold in the NFL since 1973.

Inasmuch as such purchases cover all home games during the season, it represents an initial income loss of \$8,400,000. It is true that part of this loss was recovered on the sale of some of these tickets on an individual game basis. However, in many cases such individual game purchases would have been made over and above the season ticket sale. Moreover, adverse weather and losing teams made it impossible for many clubs to recover any substantial portion of the loss through ticket sales the week of the game.

We respectfully disagree with FCC reports that indicate weather problems or teams with losing records are "much more important influences on the number of no-shows than is the antiblackout law."

Attached as appendix I is a table showing the bad weather and no-shows statistics for the 1972, 1973, and 1974 seasons. It demonstrates that each season had approximately the same number of bad weather game days and that the number of no-shows escalated dramatically with the advent of local television in 1973 and 1974.

The table also shows that the number of no-shows at the 24 locally televised bad weather-games in 1974 exceeded by 66 percent the total number of bad weather no-shows in 1972 when there was no local television.

It is axiomatic that there is a winner and a loser in each game and at the end of every season since the NFL was formed some teams had winning records and others had losing records. This is a constant and held true for 1972 just as it did during the two completed seasons under the antiblackout law. This factor could be no less and no more of a reason for no-shows before the law was passed than after the law was passed.

During this period of recession, other sports and forms of entertainment have achieved record attendances, just as many did during the time of the depression of the 1930's. But the NFL has not, and we believe what differentiates us for the others is the effect of the law we are discussing.

Basketball, baseball, and hockey have all had record attendances, as have thoroughbred and harness racing and auto racing. Likewise, the motion picture industry has achieved record gross revenues.

It is also difficult to say that professional football alone has lost appeal with the general public when last January's Super Bowl game attracted the largest television audience of any program in our Nation's history.

I understand that certain representatives of municipal authorities have submitted statements in which they express concern about their ability to pay for taxpayer-supported new stadiums because of the loss of concession and parking income due to no-shows.

An effort has been made to confine this statement to the facts as much as possible. I would merely add that the sports media, which obviously has not hesitated to severely criticize other NFL policies, is in strong general support of our position concerning the harm that can come to football from this law.

We ask that you give careful and objective review to this matter.
[The appendix follows:]

APPENDIX I
NFL GAMES PLAYED IN BAD WEATHER CONDITIONS,¹ 1972, 1973, AND 1974 SEASONS

Year	Bad Weather games	Bad weather game "no-shows"	Percentage of total season "no-shows"	Bad weather games locally televised	Locally tele-vised bad weather game "no-shows"	Total season "no-shows"
1972.....	38	229,385	37	0	0	624,686
1973.....	40	462,833	45	29	250,311	1,017,337
1974.....	37	490,017	44	24	349,748	1,124,162

¹ Bad weather conditions are rain, sleet, snow or a wind-chill factor below 30.

Senator BEALL. Thank you, Mr. Rozelle.

In your statement, you have talked about the decline in season ticket sales. Are you correlating the decline of season ticket sales to the antiblackout law?

Mr. ROZELLE. We feel it is a large factor for the reason that people who were buying tickets and found they weren't using them or perhaps even unable to satisfactorily give them away to friends or business clients, at the end of the 1973 and 1974 seasons decided that, well, it's being televised locally and we didn't go so we'll cut down from eight to two. We think that this is a part of the erosion factor that concerns us and we do not say it's the sole factor, Senator, but we feel it's a large factor.

Senator BEALL. Isn't another large factor the increase in ticket prices?

Mr. ROZELLE. Ticket prices have increased, but they have increased in other forms of entertainment during this same period.

Senator BEALL. That causes the people to make a choice. I happen to know some people who have been professional football season ticket-

holders but who do not buy season tickets any more. This is not because of a lack of interest, but is because they can not afford the kind of financial commitment that is required for season tickets. However, they might be able to buy them on an individual game basis. For instance, I'm a season ticketholder here and have been for the last 5 or 6 years—with end zone seats I might say. When I first started buying them I paid \$6 or \$7 per game and now it costs me \$11 per game.

That is a substantial increase in a short period of time. As a matter of fact, I think people who have better season ticket seats than I do—and most season ticketholders in places other than Washington, D.C. generally have seats somewhere between the 10 and 50 yard line rather than the end zone—are paying \$14 and \$15 per game for those seats. So that is a substantial price increase over the last couple years which I think must affect season ticket sales at least as dramatically—and I think it is much more dramatically—as any expectation they may have that the game will be broadcast on television.

Mr. ROZELLE. The average ticket for a football game would be closer to \$7.50 to \$8 than it would be \$15. The \$15 tickets might be 2,000 seats that would happen to be boxes.

Senator BEALL. Washington is not an average stadium then or at least the ticket prices in Washington are not average. Is that what you are saying?

Mr. ROZELLE. They are not average primarily because it's a smaller stadium than most we have.

The CHAIRMAN. Are ticket prices for a given season determined by the local owners?

Mr. ROZELLE. Yes, Mr. Chairman. The individual clubs determine their own ticket prices.

The CHAIRMAN. There's no minimum rules throughout the league?

Mr. ROZELLE. No, sir.

Senator BEALL. I have a table here that shows the average increases in 1975 ticket prices over 1974. The increase for Baltimore was 10 percent; Buffalo, 12 to 14 percent; Chicago, 14 to 25 percent; Cincinnati, 8 to 14 percent; Cleveland, 14 to 25 percent; Dallas, 20 to 25 percent; Denver, constant—they're lucky out there—Detroit, 40 to 50 percent with the new stadium; Green Bay, 10 to 15 percent; Houston, 21 percent; Kansas City, 10 to 17 percent; Los Angeles, constant; Miami only \$1; Minnesota, 7 to 15 percent; New England, 20 to 25 percent; New Orleans, 17 to 67 percent; Giants, the figures do not appear here; Jets, 15 to 20 percent; Oakland, 11 to 20 percent; Pittsburgh, 15 to 26 percent; Philadelphia, slight increase; St. Louis, 20 to 50 percent; San Diego and San Francisco, slight increase; and Washington, 13 to 32 percent.

I am not saying the increase is not justified because I do not know whether it is or not. What I am suggesting is that this perhaps affects people much, much more than does the expectation that they are going to see the games on television. In fact, they know if they do not fill the stadium up they are not going to see the game on television.

Mr. ROZELLE. Again, I would say I believe the average ticket price in the league is about \$7.50 or \$8 and they have, unfortunately, been going up, and I think our figures would indicate since the late 1960's, but that's why it's difficult for us to say that increased ticket prices would be the sole or major factor for what happened the last 2 years.

I'm sure it could be considered a factor, but this spiral has been in effect for some years and I do not believe that in today's economy when you look at the motion picture industry and other sports that a ticket that averages throughout our league at \$8 would be excessive for a day's entertainment.

Senator BEALL. I do not want to prolong this discussion. All I am pointing out is I do not think you can make a specific statement about the impact public expectations of game televising has on season ticket sales and then not make some specific statement about the impact price increases have on season ticket sales, too.

The CHAIRMAN. And, if it's \$8 a ticket for season tickets, the fans have to pay in one lump sum before the season starts, don't they?

Mr. ROZELLE. They make an initial payment and then I think the final payment is, with most clubs, in early summer.

The CHAIRMAN. A lot of football fans just don't have that \$80 or \$100 to put down right then. But that's up to the local people?

Mr. ROZELLE. Yes. The individual clubs establish their own policies.

The CHAIRMAN. I was going to ask Mr. Rozelle this question. Of course, my understanding is you would rather have no law at all. Is that right?

Mr. ROZELLE. Obviously.

The CHAIRMAN. But we have a practical problem. We have a House bill and we have a Senate bill, and we'll have to go to conference if there are differences. Why do you prefer a temporary extension instead of a permanent extension?

Mr. ROZELLE. We certainly would prefer that, as you suggested, if there is a difference of opinion over the effects of this law, that it be looked at for a short period of time. We are deeply concerned actually about it being made permanent because this type of legislation we feel would be very difficult to be taken out of the law—be eliminated once it's in.

The CHAIRMAN. Well, we're running into a time element here. The existing law expires December 31. That's why we're having these hearings, so when the Senate comes back next week or a week from Monday we can take action one way or another.

Mr. ROZELLE. I would like to say, Mr. Chairman, that if there should be some difficulty because of the press of work in the Congress, that whether the law expires or not December 31, we will commit to televising all of our postseason games, including the Super Bowl if they are sold out 72 hours in advance. So if there's any problem on your part, please rest assured that we will continue to do so in this coming post-season.

Senator BEALL. We appreciate that commitment.

The CHAIRMAN. Well, now, isn't it true that the Super Bowl will be televised nationally?

Mr. ROZELLE. Yes, sir.

The CHAIRMAN. So it will be available to all the sports fans around the Nation.

Senator BEALL. Mr. Rozelle, the House bill, I understand, is being reported with a definition of the home territory as that being within a 75-mile radius of the stadium. This committee has not attempted to statutorily define the home territory. Do you have any feelings on this? Our bill does not have that kind of language in it.

Mr. ROZELLE. We had not been advised that the House bill was being reported out that way.

Senator BEALL. They are considering it.

Mr. ROZELLE. I see. We follow the practice—and have adopted the practice since about the early 1950's—of a 75-mile radius and our problem there is that the signals can penetrate right into the city with the improved transmission reception. Many of our clubs have a more liberal policy, but we have used 75 miles since the inception of television.

Senator BEALL. But you also blackout further than that. In Florida I understand that you blackout farther than 100 miles.

Mr. ROZELLE. We blackout no station that does not televise within the 75 miles.

Senator BEALL. But the thrust of my question—

Mr. ROZELLE. I'm sorry. I'd like to clarify that.

Mr. TAGLIABUE. Mr. Chairman, the basic problem in this area is to draw the distinction between the location of the television transmitter and the areas into which the signals go, and from the early 1950's onward and up through the 1961 legislation, the position of the league and the position of the courts and indeed the position of the Congress in 1961 was that it was proper for the NFL to blackout signals which penetrated significantly within 75 miles of the city where the game was being played. That is true whether or not the television station is beyond 75 miles because in many cities—and Los Angeles is a classical example—those television signals can go for 120 miles right into downtown San Diego because of the location of the tower.

In no case have we blacked out any television where the signal has not gone into the area of the game.

Senator BEALL. The thrust of my question was do you prefer language in this bill mentioning a 75-mile limit or do you just prefer that the matter not be covered in the bill?

Mr. TAGLIABUE. We would prefer that the matter not be covered in this bill. It was quite clearly covered in the 1961 legislation and there's history on it in the enactment of that statute.

Senator BEALL. Mr. Rozelle, in general, are you suggesting that the National Football League has lost revenue as a result of this bill or are you suggesting there is the threat of lost revenue in the future if this legislation is continued?

Mr. ROZELLE. Some revenue has been lost. I do not think that we have had, in my opinion, in today's economy, serious loss, but we feel there are indications of this erosion pattern that we mentioned, particularly in the area of declining season ticket sales. Radio income has been lost, as I pointed out here.

The stadium authorities are concerned as their statements will indicate about how no-shows might affect them. We are not directly a part of that, but they have to pay for the cost of these stadiums and a no-show hurts them because they receive the concession and parking income. But I cannot say at this point that we have had serious financial losses, no.

Senator BEALL. I hear the argument about concessions used frequently, but I don't see any statistics from anybody to substantiate a loss to concessionaires in recent years. Are there statistics available?

Mr. ROZELLE. I believe that we supplied all we could obtain. We do not—our clubs do not basically have concession income because the con-

cessions for the most part are let out by stadium authorities to others. However, we have obtained what information we could from the concessionaires and supplied it to the FCC and I believe your committee, and we have also had a statement from a concessionaire for you to review. But we do not directly handle concessions.

Senator BEALL. I think a distinction has to be made. If we have those statistics and I have not reviewed them, then it is my fault and nobody else's. However, it seems to me that a distinction should be made between concessionaire revenue and capital expenditures made on concessions. In addition, I am wondering if there has been a difference in the amount of money taken in by concessionaires, which could be due to lower per capita consumption which has decreased because of higher costs in recent years.

Mr. ROZELLE. I would just refer you to the statement that was submitted for your information from one of the major concessionaires, his views.

Senator BEALL. We have not received the information yet.

The CHAIRMAN. I think you answered this, but what's the effect of no-shows on the ancillary income to municipal or local stadium authorities that have bonded themselves. Do they rely on revenues at the games to pay off those bonds? They are not always general revenue bonds. I think out in Seattle the stadium bonds are directly connected to the revenues from the use of the stadium.

Mr. ROZELLE. We had on the House side some stadium authorities who testified on that and they are greatly concerned.

The CHAIRMAN. At this point, Mr. Chairman, I have a letter from the King County executive, John Spellman, which I'd like to be placed in the record.

Senator BEALL. Without objection, it will be placed in the record.

[The letter follows:]

KING COUNTY COURTHOUSE,
Seattle, Wash., November 20, 1975.

HON. WARREN G. MAGNUSON,
U.S. Senator, Old Senate Building, Washington, D.C.

DEAR SENATOR MAGNUSON: For the most part, Seattle has historically recorded high audience levels for spectator sports. Because of this intense interest, voters in this area approved by an overwhelming 62 percent majority a bond issue to build a multi-million dollar domed stadium capable of seating 65,000 fans for football and 60,000 for baseball and soccer.

In approving this bond issue voters pledged a real estate millage tax confident that tenancy by the National Football League and other professional sports enterprises would provide revenues to match operating costs.

Further, when awarded a National Football League franchise, Seattleites illustrated their faith in this project by purchasing 59,000 season tickets—an NFL record.

Now, it would appear, Congressional action may dilute not only the value of the season tickets, both presently and for years to come, but also upset the fragile balance of stadium revenues—revenues essential to vindication of citizen concern that King County Stadium balance its operating budget.

While King County Stadium will not begin operation until March of 1976, and, thus, we are not able to quote exact figures of operation, there is enough evidence from similar buildings to indicate that extension of the television "blackout" rule would considerably diminish stadium revenues from concessions, parking and rental fees lost by the decline of future ticket sales.

Sincerely,

JOHN D. SPELLMAN,
County Executive.

The CHAIRMAN. Now I suppose when you get down to the nitty-gritty of this, what the stadium people want to do and what you people want to do is to get the fans into the stadium. It doesn't affect the actual revenue of the football team as much as it affects the revenues of the stadium, the concessions and things of that kind, particularly where they have a bond issue like Seattle has. The bonds in many cities have to be paid off directly by the revenues from the stadium.

People often ask me—people who maybe don't look deeply into this—well, why should the football teams be concerned about no-shows when somebody has paid for the empty seat? It goes beyond that. That's what I'm trying to say.

Mr. ROZELLE. It does. As an example, the football team in Seattle and apparently the new expansion franchise will have a number of sellouts and will be televised locally if this law continues, and if they have a poor record, which they probably will in their early days, there may be a great number of no-shows for some of the games, people preferring to stay home and watch it on television after the first few games, and in that case the stadium would lose money. They have estimated some 75 cents a person, which could be significant money if you have, say, 20,000 or 30,000 no-shows.

The CHAIRMAN. John Spellman has that in his letter that I just put in the record and that is a problem. Still a lot of people say, "Well, why should the football teams care about no-shows when they've got the ticket money in the till?" But, it goes beyond that.

Mr. ROZELLE. Yes, Mr. Chairman.

Senator BEALL. I think we should also note in the record, since we are discussing concessions and what happens to concessions as a result of no-shows, that on page 65 of the FCC report, the final paragraph says, "It is interesting to note that some of the biggest problems with revenues from concessions, parking and "Pro," sales affected those clubs that blacked out all of their home games."

So I am not so sure that statistically you can show that televising—lifting of the blackout—has affected the concessions adversely. We have received a copy of the letter from ARA Services, Inc., that was addressed to the House committee on this subject, and I think it appropriate that it be included in the record along with this discussion.

[The letter follows:]

ARA SERVICES, INC.,
Philadelphia, Pa., September 19, 1975.

The HOUSE OF REPRESENTATIVES,
Committee on Interstate and Foreign Commerce.
Attention: Hon. Torbert H. Macdonald, Chairman.

ARA Services, Inc. is a publicly held company having annual sales in excess of \$1,300,000,000.00, more than 50,000 employees, and whose shares are listed and traded on the New York Stock Exchange.

ARASERV, Inc. is a wholly owned subsidiary of ARA and provides food and related concession services at more than 125 locations throughout the United States. Of the foregoing locations, four are stadiums at which professional football games are held: Three Rivers Stadium, Pittsburgh, Pennsylvania; Mile High Stadium, Denver, Colorado; The Astrodome, Houston, Texas; and Atlanta Stadium, Atlanta, Georgia.

Based upon our experience at the foregoing locations, we believe that the "black-out legislation" has had a direct and adverse effect upon:

(1) The employment situation in the community at which the respective stadiums are located, in that more than 1,350 man-days of gainful employment have been lost as a result of the legislation.

(2) The respective cities owning, operating and maintaining the stadiums have received a substantially lower amount of concession revenue as a result of the declining sales by reason of "no-shows." These cities will therefore have to use other revenues to at least maintain the physical condition and level of services at existing stadiums.

(3) The public has sustained and will sustain a decline in the availability of concession services since concessionaires have been and will be unable to estimate attendance at football games as a result of the black-out legislation, and therefore will tend to reduce their staffs at stadiums as a result of the projected decline in attendance. There may well be long lines and difficulties in obtaining service if attendance gyrates wildly depending upon television availability.

(4) Football teams who often receive a percentage of concession sales and/or the sales of novelties, souvenirs and programs will receive less revenues, which may impair their ability to provide first-class programs.

(5) Food service and concession businesses like ARASERV have and will continue to receive substantially less revenues by reason of the "no-shows", which will result in a substantially reduced willingness to make investments in stadiums, pay lower commission rentals to the respective cities and teams, and hire less employees to provide their respective services.

With respect to each of the above consequences which we have experienced as a result of the black-out legislation, please note that:

(1) Adverse effect on employment: At the four previously mentioned stadiums, a total of 136,000 "no-shows" was caused by the black-out situation in 1974. Our standards indicate that for every 250 people in attendance we employ one vendor and for every 175 people in attendance we employ one service person, commissary person or sanitation person. Therefore, a loss of 1,350 man-days was caused by the black-out situation. Of course, the foregoing is our conclusion and best estimate as to the result of the legislation; however, our experience indicates that the foregoing is a conservative analysis.

(2) We believe the respective cities owning the stadiums identified above have lost approximately \$58,000 in concession commission income for 1974 season. Our basis for calculation is the 136,000 additional "no-shows" who would have spent, on the average, \$1.28 per capita for a total loss of concession sales of approximately \$165,000. Our average concession commission at the aforementioned stadiums is approximately 35% which yields the \$58,000 figure. Concession revenues are used by cities to maintain and repair the stadiums, to employ the attendants, etc. thereat, and to operate the stadiums. The cities will have to obtain such funds elsewhere.

(3) The attendance at professional football events has varied within a substantially wider range than in the past; and this range has been such that concessionaires are economically encouraged to reduce their respective staffs to meet the anticipated attendance. However, whenever staffing is reduced, the public suffers; longer lines, fewer vendors and fewer concession stands being open.

(4) Effect upon professional football and professional football teams: Professional football teams provide the players, entertainment and related services at stadiums, in addition to being responsible for making every reasonable attempt to provide a championship team to their respective cities. Lower revenue from food, beverage, programs, souvenirs and novelty sales will certainly not help the teams provide the foregoing. They may well have to obtain substitute funds from other sources, or the respective cities, fans and general public will suffer. The football teams may also be less able to pay even the present, let alone higher rentals to the respective cities which own the stadiums.

(5) Effect upon food service companies: As established above, the loss in sales revenue in 1974, attributable to additional "no-shows" due to the black-out situation was approximately \$165,000. The total aggregate investment which ARASERV has committed to the above four stadiums (exclusive of its manpower) is approximately \$4,000,000. Obviously, this loss of sales revenue handicaps our effort to obtain a reasonable return on this investment. Further, this situation will handicap us in the future to make large equipment investments in municipally-owned stadiums where professional football is played. This might have the effect of requiring citizens of municipalities to bear a larger portion of the total investment in the development and construction of food service and re-

lated facilities at stadiums. Simply stated, food service companies will be far less willing to offer the financial packages (investments and commission payments).

By reason of the foregoing factors, it is ARASERV's position that the material adverse results during the 1974 professional football season occurred as a result of the black-out legislation. If the legislation is continued, we similarly believe that the results will be repeated in ensuing years.

Respectfully submitted,

JOSEPH A. SCARMUZZI,
President.

Senator BEALL. As an example, it has been pointed out to me that Buffalo, which lifted the blackout for four of its seven games, reported an increase in parking, concessions and sales revenue from "Pro" magazine. So the statistics apparently do not support the contention that concessionaires have necessarily been adversely affected by the anti-blackout law.

I would like to turn to the subject of television revenues. Either you indicated or Commissioner Lee indicated that there has been a loss of revenues to and from radio broadcasters, as a result of this law; but isn't it reasonable to expect an increase in revenues from television broadcasters as a result of their ability to broadcast more games to a larger audience?

The CHAIRMAN. I was going to ask that, too. The claim is that one offsets the other, only the advertising revenues instead of going to the radio go to the television. That's the claim that's made.

Mr. ROZELLE. All right. That is why I cited the ratings in my statement. You see the television networks have not had more games to put in a city. They have had a different game. We permit each network to bring in one game when a team is playing at home, and before this bill there would be games from around the league. We feel that our fans are very league conscious because of the great network type telecasts we have, as against just the home teams. They are aware of the personalities playing on teams around the country. So that before this bill was passed we had two games going in when the Redskins were at home, one on CBS and one on NBC. We still have that, but the network carrying the Redskin game would carry that game, of course, rather than an outside game. But for a number of reasons, as you can see in the figures that I gave you, we have not had an increase in ratings, which is where you would have your bargaining power with the networks and there are several reasons for that.

One, we had a large number of overlaps because of lifting of the blackout where the games would come in at the same time or maybe with a 1- or 2-hour overlap. NBC and CBS, rather than one game at 1 and one game at 4, in many cases, even though we had a sellout and because of the fact that it was the home team, the network carried that club and it wasn't an attractive game because of the losing record of the home club as another game that could have come in from outside.

So you can see in these figures in my statement that we do not have at this point a rating history that will give us great bargaining leverage with the networks when our contract expires at the end of 1977 season. In fact, I had dinner night before last with the President of CBS and he was concerned about the rights—the way they are now

and how they are being sold—and gave no indication that they had been greatly benefited by this law.

Senator BEALL. Well, again, I just cannot imagine that there are not more people watching pro football in this area when a home Redskins game is on television than there are when the Redskins aren't being televised.

Mr. ROZELLE. I think that's true, Senator, but that's one of 26 cities. Now in a city like Chicago, which had a number of local telecasts for a team that was not winning well, I think those fans, rather than watching the Bears, would have preferred—most of them—to see, say, Dallas-Miami or Dallas-Redskins, but they saw the Bears game, a choice made by the station because they felt they were on the horns of a dilemma and if they didn't show the Bears they would be criticized by the very strong Bears fans that would want to see them.

Senator BEALL. You mean the Bears were sold out with their record?

Mr. ROZELLE. Yes, and so are the Giants and the Jets because they're in very large and populated areas, but unfortunately, they had losing teams.

Senator BEALL. You are suggesting that people in Chicago would rather watch somebody else play, given the opportunity, than watch the Chicago Bears?

Mr. ROZELLE. I'm merely saying—

Senator BEALL. I hardly blame them.

Mr. ROZELLE. What you're saying is correct. I would think that a Redskin game here would have a greater rating than another game coming in, but when you add those into all the figures throughout the country, as you can see here in my statement, we have not had an appreciable increase in ratings.

Senator BEALL. Well, the financial data that was supplied by your counsel indicates that total television-radio revenues were up close to \$15 million in 1974 over 1973.

Mr. ROZELLE. That was the first year of a new contract that we had negotiated prior to this law taking effect.

Senator BEALL. And that is in spite of the fact that you say you pay and you did pay large rebates to radio?

Mr. ROZELLE. Yes. Radio definitely has gone down during this period because of the rebates. The television contract you referred to was negotiated and signed before the law went into effect. It was a 4-year contract. So that that is solid for the 4 years.

Senator BEALL. But even with the rebate to radio the revenues were up \$15 million?

Mr. ROZELLE. Because television went up so much in the contract we signed; yes, sir.

The CHAIRMAN. How do you determine the rebate?

Mr. ROZELLE. These are handled by the individual clubs, Mr. Chairman. I think you spoke of this earlier, and where there's a clause in their contract or where the club feels a moral obligation to make good—

The CHAIRMAN. I was thinking about the formula you use to arrive at a rebate to a radio station.

Mr. ROZELLE. I guess the radio station and individual clubs just sit down and negotiate what they thought was fair because it would be difficult—

The CHAIRMAN. If the rating went down, then you will have to make a determination in the League, won't you?

Mr. ROZELLE. It's all done by the individual clubs because they negotiate their contracts with the radio stations or the sponsors. The league isn't involved.

Senator BEALL. You're preparing to go to negotiations, I presume, for a new contract with television broadcasters?

Mr. ROZELLE. Our present contract does not expire until after the 1977 season.

Senator BEALL. But well in advance of that time you will be going into negotiations?

Mr. ROZELLE. Yes. I would think about 6 months to a year.

Senator BEALL. I guess that is like going to war. I wouldn't want anybody to disclose their battle plans prior to going to war, but isn't it reasonable to assume that you will include in your arsenal of weapons the fact that broadcasters now have the ability to broadcast more games than they had before and therefore they should pay you more money?

Mr. ROZELLE. As I pointed out, Senator, they are not broadcasting more games. They are broadcasting different games. The number of games televised is the same as before the law went into effect. Certainly we will use every argument.

Senator BEALL. But they are more lucrative games.

Mr. ROZELLE. Well—

Senator BEALL. You show me that statistic, but does that statistic apply to the whole league?

Mr. ROZELLE. Yes, sir.

Senator BEALL. And it may also show some lack of interest in the sport or decline of interest in the sport?

Mr. ROZELLE. Well, the Super Bowl game last January had the largest average audience of any program in television history, so we think there is interest on the part of the public certainly.

Senator BEALL. The world series does, too, but some people watch the world series who never see a regular season baseball game.

Mr. ROZELLE. The basic thing we will have to sell against is what their national ratings are during the 4-year period of the present contract.

Senator BEALL. So you don't think the fact that there is the ability to broadcast a Washington game in Washington is going to be a factor you use in negotiating a new contract for television?

Mr. ROZELLE. If that's reflected in increased ratings during the balance of the present contract, I certainly will use it; but the whole answer is the audience we deliver nationally, not in Washington, not in Chicago, because they sell on a national basis. The same sponsors that sponsor in Washington, for the most part, will be sponsoring in San Diego and Denver. So the national Neilson figures would be the basic barometer for our negotiations.

Senator BEALL. Maybe the blackout has helped keep that figure up. For instance—I just can't statistically prove this—but it must be true in Washington more people watch a television game when the Redskins are on than when they aren't on. No one can convince me otherwise, and I think if you took a survey on this question, you would find that to be the case. Therefore, I'm suggesting that this is perhaps one

of the reasons why the revenue from attendance hasn't dropped off more, if it already has as you suggest. So maybe the antiblackout law is protecting you.

Mr. ROZELLE. In Washington's case, I think that's true.

Senator BEALL. It is true overall, is it not because Washington is thrown into the total national picture—

Mr. ROZELLE. Well, I'd like to have some information I could submit to you as an exhibit which would go into this a little. We do have an analysis. I didn't want to take it up in our statement, but we do have a television analysis I will make available to you.

Senator BEALL. On various markets?

Mr. ROZELLE. Yes, sir.

Senator BEALL. I'd like to see that. May we have that for the record?

Mr. ROZELLE. Yes, sir.

The CHAIRMAN. We'll put that in the record. I have no more questions.

Senator BEALL. Thank you, Mr. Rozelle. We appreciate your testimony.

Mr. ROZELLE. Thank you very much.

[The following information was subsequently received for the record:]

SPECIAL RATING SURVEY ON 8 MARKETS

Question. What has happened to the television ratings of pro football on the local television stations in the markets where the game telecasts were televised in accordance with Public Law 93-107.

Answer. Not very much at all . . . in some cases the ratings were lower than in the previous years when fans had a better selection of games available to them.

A special A.C. Nielsen breakout of 8 markets where local home games have been televised over the past five years indicated a relatively small increase in audiences for some markets and a decrease in others for NFL football telecasts. The markets studied were Atlanta, Chicago, Denver, Minneapolis, New York, Philadelphia, Pittsburgh, and Washington, D.C. A closer look indicates that pro football ratings in the following markets prior to legislation and after legislation looked something like this:

1. Atlanta (1-7 p.m.):

1970-72 no local TV, average:

CBS-TV—18 percent rating; 45 percent share.

NBC-TV—14 percent rating; 36 percent share.

1973-74 local TV, average:

CBS-TV—17 percent rating; 41 percent share.

NBC-TV—16 percent rating; 39 percent share.

WAGA-TV is the basic Atlanta Falcons station and their ratings and share were marginally lower. It could be calculated here that the NBC-TV telecasts over WSB-TV did nearly as well (-1 rating point) as the locally televised Falcons game.

2. Chicago (12-6 p.m. CST):

1971-73 no local TV, average:

CBS-TV—13 percent rating; 36 percent share.

NBC-TV—10 percent rating; 27 percent share.

1973-74 local TV, average:

CBS-TV—15 percent rating; 41 percent share.

NBC-TV—9 percent rating; 25 percent share.

Here again the CBS station WBBM-TV did not appreciably increase its audience ratings or share by virtue of the local game "lifts."

3. Denver (11-5 p.m. MST):

1970-72 no local TV, average:

NBC-TV—19 percent rating; 52 percent share.

CBS-TV—11 percent rating; 31 percent share.

1973-74, local TV, average:

NBC-TV—27 percent rating; 66 percent share.

CBS-TV—8 percent rating; 20 percent share.

Here is a situation where the local station did show audience gains in ratings and share. However pro football ratings combined before the local TV "lift" had a 30 rating and after the "lift" it was increased to a 35 combined rating. Not that much of an improvement as only 25,000 more households watched the local Denver games than had been watching pro football before the legislation.

4. Minneapolis/St. Paul (12-6 p.m. CST):

1970-72 no local TV, average:

CBS-TV—20 percent rating; 51 percent share.

NBC-TV—11 percent rating; 22 percent share.

1973-74 local TV average:

CBS-TV—22 percent rating; 50 percent share.

NBC-TV—13 percent rating; 31 percent share.

Here again the CBS-TV station that carries the bulk of the Vikings telecasts showed no appreciable increase in audience ratings due to local "lift."

5. New York (1-7 p.m.):

1970-72 no local TV, average:

CBS-TV—12 percent rating; 35 percent share.

NBC-TV—11 percent rating; 25 percent share.

1973-74 local TV, average:

CBS-TV—10 percent rating; 25 percent share.

NBC-TV—8 percent rating; 21 percent share.

The New York market is a classic example of how the local blackout hurt the pro football TV fan. The ratings in the number one market were much lower when Jets and Giants games were locally televised. Prior to the lift more than 1,380,000 households watched the pro football television offerings. When the local teams appeared this audience dropped to 1,080,000 or a decrease in 300,000 homes.

Philadelphia (1-7 p.m.):

1970-72 no local TV average:

CBS-TV—18 percent rating; 43 percent share.

NBC-TV—13 percent rating; 30 percent share.

1973-74 local TV average:

CBS-TV—20 percent rating; 48 percent share.

NBC-TV—10 percent rating; 25 percent share.

Here again the CBS-TV station (WCAU-TV) showed slight increases over the previous years before the lift. However the general TV pro football audiences were the same with a 31 Rating prior to the legislation and 30 Rating with the "lift". This is another indication that the pro football TV fan has not changed his preferences and in some cases he had to watch inept games as substitutes, when more attractive games were being televised!

7. Pittsburgh (1-7 p.m.):

1970-72 no local TV, average:

NBC-TV—17 percent rating; 36 percent share.

CBS-TV—18 percent rating; 38 percent share.

1973-74 local TV, average:

NBC-TV—23 percent rating; 46 percent share.

CBS-TV—16 percent rating; 32 percent share.

The Steelers did increase audiences during their two seasons locally televised. Both years were banner seasons for the long suffering Pittsburgh fans. 1973 they were in the playoffs and 1974 on to the Super Bowl.

But the bonanza was still not that dramatic. The pro football TV audience increased only slightly from a 35 combined rating to a 39 combined rating. It is also interesting to note that prior to the legislation the more popular TV attractions were from the National Conference and not from Pittsburgh's own division. It was only when the Steelers began winning did their TV ratings increase.

8. Washington, D.C. (1-7 p.m.):

1970-72 no local TV, average:

CBS-TV—18 percent rating; 42 percent share.

NBC-TV—12 percent rating; 28 percent share.

1973-74 local TV, average:

CBS-TV—24 percent rating; 52 percent share.

NBC-TV—14 percent rating; 29 percent share.

The Redskins TV fortunes by far were the biggest gainers of all of the markets surveyed. With the winning seasons and post-season positions of the club the audience ratings were quite good. It is interesting to note here that in 1972 the pro football ratings achieved a 24 rating and a 56 percent share with no local television of the Redskins games. This factor was equal to the average of the two years of televising all Redskins games.

CONCLUSIONS

The market surveys as supplied by the A. C. Nielsen Company indicate that there wasn't any great increase in television ratings over the five year period that was measured. If anything the total drop-off in New York resulted in fewer households overall. This can be reflected by the networks own admission that ratings over the past few years have remained constant.

The below listed figures show that CBS and NBC did not gain anything over the past two years of the legislation.

	1973	1974	Percent
NBC-TV.....	13.2	14.0	+6
CBS-TV.....	14.3	13.7	-4

These national ratings pretty much tell the story that NBC picked up marginally in the smaller markets whereas CBS lost ground in strong markets like Philadelphia, New York, Chicago.

NBC was also able to juggle the late game in many instances so as to not oppose the local "lift".

The only people who gained somewhat were the non-ticket buying fans in the markets where stadia sizes were small—(Denver, Pittsburgh, Washington, Minnesota). Overall, however, the pro football TV fan didn't always get his chance of what was heretofore a sensible way of presenting attractive games. The TV fan was exposed to the losing seasons of Chicago, Atlanta, Philadelphia, Denver and New York.

A total of 60 wins and 103 losses were made available to the TV football fan. Hardly a good choice!

SPECIAL ANALYSIS FOR NATIONAL FOOTBALL LEAGUE

Based on:

- October 29–November 25, 1970.
- October 28–November 24, 1971.
- October 26–November 22, 1972.
- October 25–November 21, 1973.
- October 24–November 20, 1974.

Viewers in profile reports for the following markets: Atlanta, Chicago, Denver, Minneapolis, New York, Philadelphia, Pittsburgh, and Washington, D.C.

MARKET ATLANTA¹

Year	WAGA (C)			WSB (N)		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
1 to 4 p.m.:						
1970.....	15	42	94	15	42	96
1971.....	25	66	170	8	21	59
1972.....	9	27	60	20	59	140
1973.....	23	53	154	13	30	106
1974.....	8	25	63	19	59	162
4 to 7 p.m.:						
1970.....	19	43	113	15	34	99
1971.....	17	38	116	15	33	109
1972.....	21	53	151	11	24	95
1973.....	16	35	119	19	41	130
1974.....	22	51	165	12	28	95

¹ 4-week averages include programing other than football.

MARKET CHICAGO¹

Year	WBBM (C)			WMAQ (N)		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
12 to 3 p.m.:						
1970.....	17	50	422	7	20	171
1971.....	10	32	245	9	28	214
1972.....	14	42	365	11	31	266
1973.....	16	46	418	9	25	237
1974.....	20	57	530	5	14	118
3 to 6 p.m.:						
1970.....	10	26	244	12	31	292
1971.....	11	31	285	8	23	203
1972.....	15	37	356	11	26	271
1973.....	13	33	326	12	32	318
1974.....	10	29	245	9	29	257

¹ 4-week averages include programing other than football.MARKET—DENVER¹

Year	KLZ (KMGH—effective 1972) (C)			KOA (N)		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
11 a.m. to 2 p.m.:						
1970.....	14	44	65	14	44	66
1971.....	8	24	39	23	68	110
1972.....	12	35	65	17	50	84
1973.....	7	18	44	30	75	158
1974.....	7	18	41	26	68	150
2 to 5 p.m.:						
1970.....	7	23	36	15	50	71
1971.....	13	34	65	17	45	84
1972.....	10	23	54	26	59	137
1973.....	12	28	67	23	54	128
1974.....	7	17	42	29	69	175

¹ 4-week averages include programing other than football.MARKET MINNEAPOLIS-ST. PAUL¹

Year	WCCO (C)			KSTP (N)		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
12 to 3 p.m.:						
1970.....	29	64	199	7	17	53
1971.....	26	65	183	10	25	67
1972.....	21	64	158	8	24	63
1973.....	27	60	214	12	27	92
1974.....	23	53	200	14	33	113
3 to 6 p.m.:						
1970.....	13	31	86	16	39	109
1971.....	17	42	113	14	34	96
1972.....	15	42	118	10	28	82
1973.....	22	49	176	15	33	110
1974.....	15	38	130	13	33	104

¹ 4-week averages include programing other than football.

MARKET NEW YORK¹

Year	WCBS			WNBC		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
1 to 4 p.m.:						
1970.....	13	35	795	9	24	510
1971.....	13	36	836	8	22	469
1972.....	13	34	913	7	18	433
1973.....	7	18	490	14	37	854
1974 ²	8	25	546	9	27	568
4 to 7 p.m.:						
1970.....	11	23	636	15	31	926
1971.....	13	27	794	12	25	714
1972.....	11	22	675	14	28	899
1973.....	14	31	881	3	7	248
1974 ²	12	27	773	6	15	436

¹ 4-week averages include programing other than football.² Special analysis.MARKET PHILADELPHIA¹

Year	WCAU (C)			KYW (N)		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
1 to 4 p.m.:						
1970.....	20	56	385	8	22	157
1971.....	26	57	517	10	21	213
1972.....	16	40	322	16	40	348
1973.....	25	54	525	13	28	276
1974.....	31	78	642	3	8	95
4 to 7 p.m.:						
1970.....	10	26	214	16	41	345
1971.....	19	43	387	11	25	270
1972.....	17	35	365	15	31	331
1973.....	15	34	308	16	36	365
1974.....	11	29	263	10	26	220

¹ 4-week averages include programing other than football.MARKET PITTSBURGH¹

Year	KDKA (C)			WIIC (N)		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
1 to 4 p.m.:						
1970.....	26	58	241	7	16	667
1971.....	11	24	125	20	43	173
1972.....	12	24	130	24	49	228
1973.....	15	31	155	19	40	191
1974.....	19	40	199	19	40	182
4 to 7 p.m.:						
1970.....	16	35	345	19	41	329
1971.....	21	45	221	15	33	151
1972.....	19	42	206	16	36	164
1973.....	15	28	164	29	54	277
1974.....	14	29	154	25	52	233

¹ 4-week averages include programing other than football.

MARKET WASHINGTON 1

Year	WTOP (C)			WRC (N)		
	Metro rating	Share	Total households (thousands)	Metro rating	Share	Total households (thousands)
1 to 4 p.m.:						
1970.....	17	44	168	12	31	120
1971.....	14	30	136	8	16	88
1972.....	24	56	268	12	28	143
1973.....	29	57	341	14	27	150
1974.....	29	64	359	7	16	79
4 to 7 p.m.:						
1970.....	18	40	181	15	33	160
1971.....	20	44	212	12	27	138
1972.....	17	40	200	14	33	168
1973.....	18	38	217	14	30	171
1974.....	22	48	264	19	41	127

1 4-week averages include programing other than football.

Senator BEALL. Our next witness is Mr. Don V. Ruck, vice president, National Hockey League, who will be accompanied by Philip R. Hochberg.

Mr. Ruck, it's nice to have you again. You may proceed as you wish with your testimony.

STATEMENT OF DON V. RUCK, VICE PRESIDENT, NATIONAL HOCKEY LEAGUE; ACCOMPANIED BY PHILIP R. HOCHBERG, COUNSEL

Mr. Ruck. Senator, my remarks will be quite brief.

This is the fourth time that I have appeared before Congress on the question of blackouts and in all of our previous appearances we have opposed a legislative resolution of what must be, in the final analysis, a marketplace decision. And despite the fact that the National Hockey League had voluntarily lifted network blackouts, we continue to oppose the concept of the legislation.

However, if Congress, in its wisdom, does pass legislation, we would prefer the Senate version, which at least constitutes less-than-permanent legislation and maintains a reporting function in the FCC. These were two of our principal concerns with H.R. 9566.

Nevertheless, there are still two aspects of S. 2554 which trouble us: postseason games and the definition of a network.

POSTSEASON GAMES

The National Hockey League respectfully urges this subcommittee not to adopt the provision relating to postseason games as proposed in S. 2554.

In the first place, your existing legislation covers the situation. As soon as a team knows it has made the playoffs, tickets are available for purchase for the entire series. Such legislation would create three serious problems.

(1) *Telecasting per se.*—There is the potential, almost certain, loss of revenue. Clubs with small arenas can be injured when there is a telecasting, even when tickets are completely sold out. For instance, to

televise will virtually eliminate the possibility of sale of standing-room tickets, an important and sizable source of income which in the past has meant much to many National Hockey League teams. It will also mean additional loss of ancillary revenue by reason of a smaller audience. Finally, the lifting of blackouts does not result in additional dollar remuneration from the network that is carrying the game in the home city.

(2) *Clearance and sales problems.*—While generally the lifting of a blackout on a national network telecast merely means the “plugging-in” for the local market, serious problems are raised where there might be a regional network sale. Moreover, if any sales problem exists for a television station selling spots 72 hours in advance, this problem obviously is escalated if the period in which to sell is reduced from 72 hours to 24 hours.

(3) *Ticket-selling problems.*—And, finally, there are some very practical—and financial—ticket selling problems that will arise by using a 24-hour standard for postseason games. Many fans will obviously wait, before purchasing tickets, to see if, indeed, the game will be telecast. If the game has not been sold out 24 hours in advance, there will then be a significant problem in selling the remaining tickets within 24 hours. Box offices do not remain open through the night. A team could well end up with literally thousands of tickets which it was physically impossible to sell. The 24-hour deadline further makes difficult any publicizing of ticket availability, since one may well be precluded from any advertising or promotion.

NETWORK DEFINITION

On an entirely separate point, the National Hockey League would urge this subcommittee to refine the scope of the legislation to apply to only pooled contracts with national networks: This was the concern in 1961 when Public Law 87-331 was passed; it was the concern in 1973 when Public Law 93-107 was passed. It should be the concern here.

Given the temporary absence of a national network contract, it is not at all beyond the question that the National Hockey League could set up a small, regional network of, say, Boston, New York, Philadelphia, Buffalo, Chicago, and Detroit. Virtually all of our teams do not televise their home games. Except in the instance of a true national network game, it is unlikely our teams will change this policy. If the *quid pro quo* for this regional contract would be the lifting of the blackout in the originating city, the entire contract might be lost by a firm policy of the team not to televise home games. The distinction between this kind of regional network—set up most likely with independents in these markets—and a national network contract is obvious: The financial rewards exist with a national network simply do not exist in anywhere near the same magnitude with a regional network. It is no longer, a simple sale to one entity—the network—that clears the program; rather, each individual station must be cleared on a station-by-station basis. Problems of sales to sponsors are multiplied by the regional nature of the network.

From a procedural standpoint, Mr. Chairman, no problem exists. This definition may be taken care of in report language and we stand ready to provide it.

Senator BEALL. Thank you, Mr. Ruck.

On the question of regional networks, are you suggesting that there be an exemption just for hockey or that all sports be exempted for the purpose of regional networks?

Mr. RUCK. Well, Senator, obviously, I'm here representing only the National Hockey League. I can't speak for others, but I would presume that the interest would be similar if the problems were the same. Commencing with this season we no longer have a national network contract. I think that's about as far as I could comment on it, Senator. They would have interest if their problems were similar.

Senator BEALL. Isn't it true that regional network contracts which are negotiated either by a league or by a group of teams are protected from antitrust prosecution?

Mr. RUCK. The question is, is it true?

Senator BEALL. Yes.

Mr. RUCK. I would have to turn to counsel for a response to this.

Senator BEALL. It is true, isn't it?

Mr. HOCHBERG. Certainly, Mr. Chairman, to the extent that the league negotiates the contract even on a regional basis, in counsel's opinion, this would be covered by the exemption of Public Law 87-331.

Senator BEALL. And if the teams as a group negotiated the contracts, would they be exempt also?

Mr. HOCHBERG. I would defer judgment on that, Mr. Chairman.

Senator BEALL. You say there's a potential and almost certain loss of revenues that will result from telecasting home games. Do you really have any evidence that this has been the case?

Mr. RUCK. Senator, in previous testimony going back to the first such hearings, we submitted very, very specific evidence at that time where we in the National Hockey League had voluntarily lifted blackouts and had been doing so for approximately 8 years. We showed cases where the lifting of a blackout did in fact affect the gate receipts in one instance by 33 percent.

In our instance, because it was an in-family decision, we were striving to promote the sport of hockey, which is not indigenous to this country, and one of the methods of promoting it was to gain broader television exposures and hopefully to increase television ratings. When we lifted those blackouts we did so with an in-family decision that if the clubs' gate receipts were down and we could so prove from reports to the league office they would be reimbursed for that loss and we had such losses in very stronghold cities such as Detroit and Chicago which have been in the National Hockey League for 50 years. We had them in St. Louis and Philadelphia and other cases where we lifted the blackout. Yes, we were affected.

Senator BEALL. Well, individually and as a league, in the FCC's report they indicate on the basis of information received from the NHL that there has been a minimal impact as a result of lifting the blackout. Now I guess you are making a distinction between some teams and the league. Is that what you are doing? Because on the one hand, you are saying that there has been a loss of revenue, but the statement of the FCC on page 112 of the second report indicates that they have received no information from the NHL to date that changes its view that the effect of the blackout rule on the NHL as a whole would appear to be minimal.

Mr. RUCK. Well, Senator, certainly for the purposes of that report the games that were covered in that report were extremely limited. We did report that in a good number of cities there was in fact no effect whatsoever. That was all part of our report and there are others—and it depends on whether a team is winning or losing; it depends on whether it is a hockey stronghold or whether it is a new franchise such as Washington, Kansas City—the six new teams that came in in 1967. In New York and Boston, hockey strongholds, no, it has not had any impact.

Senator BEALL. Are standing room tickets a major item?

Mr. RUCK. They are, Senator, when you consider that we are playing in buildings some of which have seating capacities as low as 13,000. There are some buildings where standing room, fully in accordance with fire law, ranging from 1,000 to almost 2,000 standing room tickets, and when you're playing in a small arena it's not an 80,000 outdoor arena like baseball may be playing in—yes, it is, percentagewise, a healthy chunk of revenue for us.

Senator BEALL. It is your contention that this standing room business would be adversely affected through a lifting of the blackout?

Mr. RUCK. I don't think there's any question about that. We have seen that demonstrated this year. I would say we have four or five cities where right now at this juncture of the season—maybe six or seven—where our attendance is down and we have seen a reduction in the sale of standing room tickets.

Senator BEALL. How many of your teams own their own auditorium?

Mr. RUCK. I can approach it the other way. I can tell you those that do not. We are very, very solid taxpayers, Senator. We do not own arenas in Long Island, Pittsburgh, Oakland, and Buffalo. All other NHL arenas are owned by the team and hockey, which is the owner of the building, in most instances, basketball is a tenant.

Senator BEALL. Therefore, since you own the stadiums, you have an interest in the ancillary income and the ancillary services that are provided?

Mr. RUCK. We most certainly do, Senator.

Senator BEALL. And do you contend that there is a serious threat of lost ancillary income as a result of lifting the blackouts?

Mr. RUCK. Well, in testimony just several days back on the House version of the bill, I mentioned that the reason that we were requesting there an extension of the temporary legislation was because it was our understanding that this was an experimental thing to attempt to determine at some point in time whether in fact there is any harm or damage that will be done by reason of the law.

In regard to that, I pointed out that we simply did not have the proper evidence. We are now in the process of accumulating this kind of evidence in a more sophisticated way than it has ever been necessary in the past because we didn't have this kind of problem in the past.

So I must state to you candidly heretofore we have not had that kind of concrete evidence to submit and it's why we urge that the legislation not be made permanent but be continued on an experimental, temporary basis, giving us some time to in fact take a much harder, closer look at where the greatest impact might come.

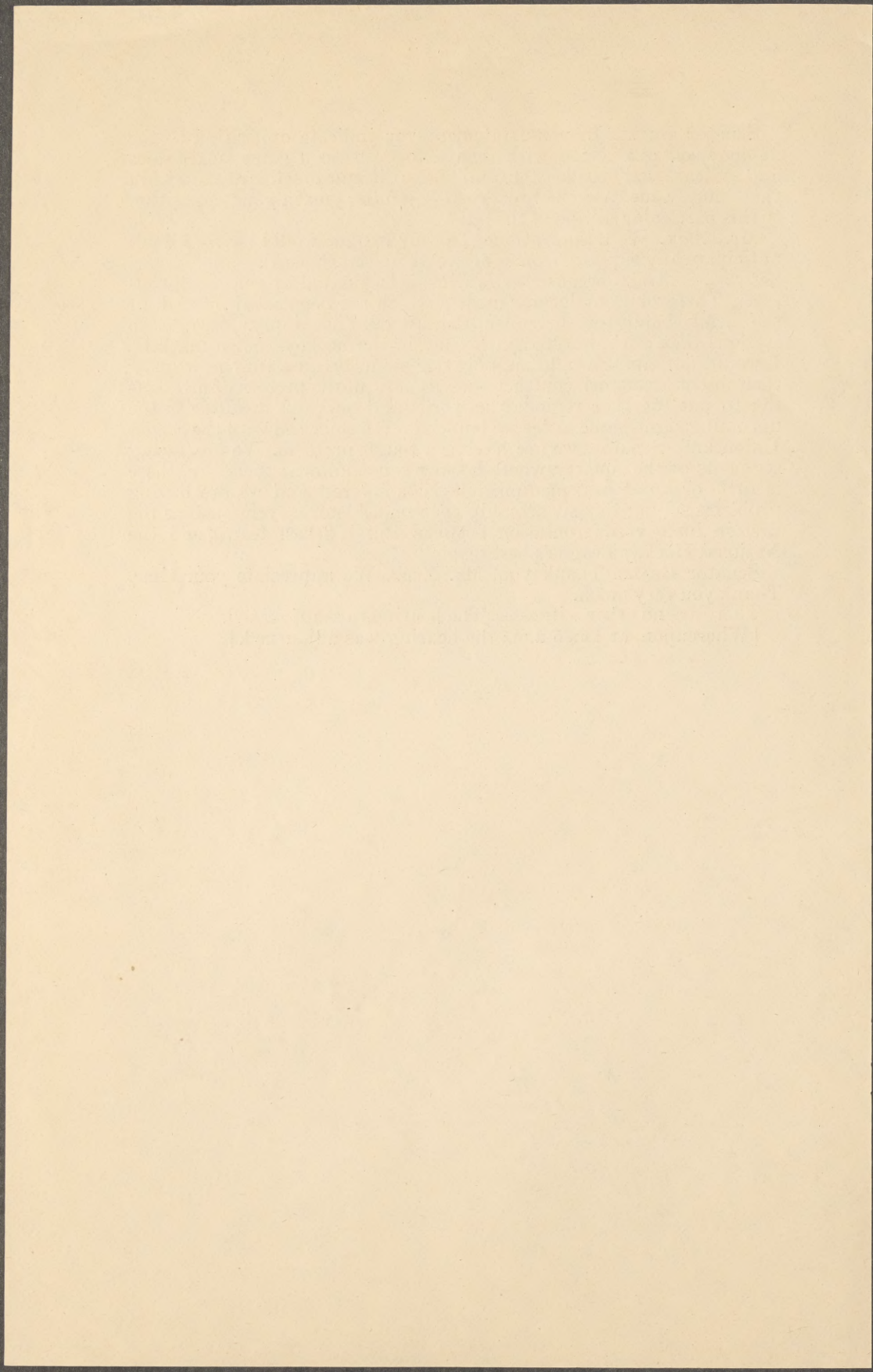
Senator BEALL. In your statement you indicate opposition to the 24-hour sell out period with regard to postseason game ticket sales and indicate that broadcasters will find it difficult to sell air time within that time frame. Are the broadcasters joining you in your opposition to this particular section of the bill?

Mr. RUCK. Well, the National Hockey League would have—I don't anticipate any support from a network, inasmuch as we do not have a network contract, because the law has been limited to a network contract. Therefore, our local contracts which are negotiated by each of the member clubs on their own, the law does not apply. Most of the stations that are interested in hockey in the hockey-known markets, I would anticipate would support our stand because they now know that absent a network contract—we are now in the process of attempting to put together regional networks and our first deadline is the upcoming eight-game series we launch on December 28 with the Soviet Union and, Senator, we are having a tough problem. We are facing segments of the country where hockey is not known; therefore, there is little or no at best medium television interest and we are having problems selling this sponsorship even on a historic event such as the first in history confrontation between Russia's best teams and the National Hockey League's best teams.

Senator BEALL. Thank you, Mr. Ruck. We appreciate your time. Thank you very much.

There are no other witnesses. The hearings are adjourned.

[Whereupon, at 11:35 a.m., the hearing was adjourned.]



ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF LAWRENCE F. O'BRIEN, COMMISSIONER, NATIONAL BASKETBALL ASSOCIATION

Mr. Chairman, my name is Lawrence F. O'Brien. As Commissioner of the National Basketball Association, I am here to give you the NBA's views on S. 2554 to amend Public Law 93-107 with regard to the broadcasting of certain professional sports club's games.

In 1973 Congress enacted Public Law 93-107, known as the "Sports Anti-blackout Law", to provide that any blackout imposed by the terms of a league television contract must be lifted if all seats made available for sale 120 hours or more before the starting time of the televised game have been sold-out 72 hours or more in advance of that game.

Although the National Basketball Association opposed the enactment of that legislation, it appreciated the willingness of Congress to establish the law on an experimental basis for a period of less than three years to permit an evaluation of the law's actual effect. To conduct such an evaluation, the Congress required annual reports and studies to be prepared by the Federal Communications Commission. As you know, the National Basketball Association submitted to the FCC all of its available data—covering one and one half of its regular NBA seasons—and additional information for the remaining half of the 1974-75 season was provided to the Commission after the conclusion of the championship playoffs.

When Public Law 93-107 was initially considered, the NBA indicated it might be difficult to secure adequate information over a short period of time to measure the full effect of the anti-blackout legislation on ticket sales and collateral revenues. We continue to feel that a two-year experiment with P.L. 93-107 has not been long enough to develop supportable conclusions regarding its effect on professional basketball. For this reason, since it is more difficult to alter an established law, we believe the existing legislation should be extended on an experimental basis for an additional period to encourage continued review by the Federal Communications Commission.

While we agree that the information developed to date has provided no significant evidence of negative impact, we are concerned about longer term effects. For example, because turnstile counts were not available from many of the arenas, the "no shows" identified over the 1974-75 NBA season were not significant in numbers. However, when the local blackout of a network game telecast was lifted in time for the public to become aware of it, the "no shows" were consistently higher than they were for other non-televised home games against the same opponent. For this reason, we would like to obtain additional turnstile data on total admissions for comparison with the number of tickets issued, to document in greater detail the consistently negative effect which lifted local blackouts have had on the number of "no shows".

With specific reference to post season games, there are two types of situations. One involves the first four games of each of the three playoff rounds in which a team must win four out of seven games. In each instance the basketball fan knows well in advance that all of the first four games in each series will be played, and he can purchase tickets at his convenience. This is similar to the sale of tickets for televised regular season games and should be similarly treated by continuing to apply no less than the 72 hour rule.

A different set of circumstances is created, however, when more than the first four games must be played to determine the winner of a playoff series. A fifth, sixth or seventh game becomes necessary, depending on how soon one of the two teams wins a total of four games, and it is these contingent games which cannot be played until the winner of each previous game has been determined. As a result, it is frequently less than 72 hours before game time before a basketball fan knows if any one of these contingent games will be played. Although fans can purchase tickets in advance of such games and obtain a refund if they are

not played, many may delay purchasing tickets both until they know the game will be played and whether it will be televised locally.

As a service to the public, we can understand the subcommittee's desire to reduce the 72 hour rule to something less for post season games, but we think such consideration should be limited to those contingent games which may be televised in each of the three rounds of the playoffs. For those games we think a reduction in the 72 hour rule may be feasible, but we would prefer to experiment with 48 hours because a 24 hour period may not allow the team adequate time to publicize the game nor permit the fan sufficient time to purchase tickets after learning that a contingent game would be played and not televised.

In summary, Mr. Chairman, I realize the law has had less effect on the NBA to date than it may have had on other professional sports since the number of nationally televised games over each of the past two seasons has been limited by league contract to 39, and only 7 of these games were played with the local blackout lifted by law during the 1974-75 season. However, the National basketball Association suggests that the sports anti-blackout law be extended experimentally for a limited period of time, retaining the 72 hour rule for the playoff games which must be played, and applying a reduced 48 hour rule to the contingent games in each of the three playoff series.

STATEMENT OF NATIONAL BROADCASTING COMPANY, INC.

National Broadcasting Company, Inc. ("NBC") hereby submits this statement in support of the pending legislation, S. 2554, which would continue for a three-year period the current ban on home-team television blackout of certain professional sports events.

NBC supported the anti-blackout legislation when it was first proposed and continues to support it. We believe that contractual provisions requiring blackouts do not serve the public interest because they limit the public's opportunity to see popular sports events on free television. There is substantial public demand to see home games, particularly where no stadium tickets are available. As broadcasters, we want to be able to satisfy that public demand. The legislation gives us that capability.

Our analysis of the local television audiences for NFL football during the 1974 season clearly documents the benefits which the public has obtained from the legislation (see attachment hereto). In most cases, the home-team is the most popular and the most popular games telecast are generally sold-out games played at home. On some occasions, however, particularly when the home-team is not in contention, games played by contending teams in other cities may have greater viewer interest. The legislation does not deny us the flexibility to present these out-of-town games on those occasions.

The NFL has contended that lifting blackouts has increased the number of "no shows" at home games, causing decreased revenues for NFL teams, stadium authorities and concessionaires. The FCC studies make clear, however, that the problem of "no shows" is complex and that it cannot be concluded that the anti-blackout law, standing alone, has caused the alleged economic losses the NFL has experienced. Certainly, any adverse effects caused by the law is far outweighed by its benefits—increasing the public's opportunity to see more popular professional sports events.

S. 2554 would extend the ban on blackouts for a period of three years and continue to require the FCC to study and report on the impact of legislation. We believe that sufficient experience has been gained over the past two years to permit the Congress to make the judgment that the law should be permanent. We also support the extension of the law for a three-year period if the Congress believes that additional operating experience would be desirable. Under either approach, the benefits of the law would continue.

Finally, the change in S. 2554 applying to the post-season games of professional baseball, basketball and hockey appears to be desirable to remedy a practical problem that exists under the current law. Since most post-season games in those sports must, by necessity, be scheduled less than 72 hours in advance, the change in the legislation will result in more sold-out play-off games being available to the public. The change should not cause any operating problems for the networks carrying those games.

We thank this Committee for giving us this opportunity to express our views on S. 2554, which we are pleased to support, as a continuation of a Congressional policy which we believe has served the public interest.

LOCAL RATINGS OF REGULAR SEASON GAMES TELECAST IN NFL MARKETS

NFL market home team	Home team home games			Home team away games			Games without home team		
	Number	Rating	Share	Number	Rating	Share	Number	Rating	Share
American Football Conference									
New York Jets.....	2	17.2	46	1	12.8	36	2	9.3	22
Baltimore Colts.....				2	22.6	62	2	15.0	43
Buffalo Bills.....	1	36.6	68	2	47.7	80	2	14.6	34
New England (Boston) Patriots.....	3	38.7	79	1	33.9	74	1	16.9	43
Miami Dolphins.....	1	44.6	85	1	42.5	80	2	21.8	55
Cincinnati Bengals.....	2	27.0	62	2	23.9	62			
Houston Oilers.....				3	23.7	62	3	24.6	58
Pittsburgh Steelers.....	1	36.8	74	2	35.6	66	4	15.2	38
Cleveland Browns.....	1	32.8	74	2	36.0	72	2	30.6	65
San Diego Chargers.....				2	22.5	62	3	14.7	54
Oakland Raiders.....	1	23.8	73	2	16.4	55	2	10.6	48
Kansas City Chiefs.....				1	29.3	70	4	13.7	39
Denver Broncos.....	1	45.0	88	2	42.3	86	3	24.9	72
National Football Conference									
New York Giants.....				2	17.7	37	3	10.4	33
Dallas Cowboys.....				2	40.0	77	4	19.6	49
Washington Redskins.....	1	42.1	71	3	34.9	76			
St. Louis Cardinals.....	1	30.1	72	2	33.9	77	2	25.7	61
Philadelphia Eagles.....	2	24.9	64	2	28.1	68	1	16.8	42
Minnesota (Minneapolis-St. Paul) Vikings.....	2	39.1	77	1	41.7	79	3	15.7	39
Green Bay (Milwaukee) Packers.....	1	42.1	75	3	41.6	83	2	21.0	50
Chicago Bears.....	2	22.6	59	2	22.4	63			
Detroit Lions.....				1	30.8	56	3	16.9	45
Los Angeles Rams.....				2	14.2	47	4	12.3	39
San Francisco 49ers.....				2	19.2	62	3	12.2	51
Atlanta Falcons.....	1	25.8	70	2	26.0	57	3	12.5	36
New Orleans Saints.....				1	36.0	77	4	19.9	50
Totals.....	23	32.1	70	48	29.7	67	62	16.5	46

Source: ARB November 1974 (Oct. 23, 1974-Nov. 19, 1974).

STATEMENT OF FREDERICK S. PIERCE, PRESIDENT, ABC TELEVISION

My name is Frederick S. Pierce and I am President of ABC Television. Thank you for the opportunity to participate in these hearings and to present ABC's view on the sports anti-blackout law.

It was just over two years ago that Public Law 93-107 was enacted. This legislation supplemented the Communications Act of 1934 with new Section 331, to provide in the case of certain professional football, basketball, baseball and hockey games for the lifting of the home-team blackout under circumstances of stadium sellout. In hearings before the Congress in 1972 and 1973, ABC participated and supported such legislation. We believe that Section 331 has been of benefit to the public.

When the sports anti-blackout law was being considered, it was generally evident that a degree of experimentation was involved. Prior to that time, there had been no such restrictions upon home-team blackouts and some sports interests cautioned that the legislation could have undesirable effects. With these thoughts in mind the legislation was framed as an experiment to the extent that Public Law 93-107 provides that Section 331 "is repealed effective December 31, 1975".

We understand you are now reviewing the results of this legislation, and considering whether this law should be continued. Specifically, S. 2554 would continue existing Section 331, with slight modifications, for an additional three years.

In ABC's judgment, Section 331 has been highly beneficial to the American public and should be continued. For reasons which I shall elaborate upon, we urge you to adopt the necessary further legislation to continue in effect the approach embodied in Section 331.

Although the sports anti-blackout law applies to telecasts of games in four professional sports, its impact has been felt primarily in football. For this reason

I shall focus my comments upon the law's relationship to the telecast of professional football games. However, we believe the legislation should continue to apply to all four sports, even though the number of baseball, basketball, and hockey events telecast because of the anti-blackout provision has been few.

At the outset, it is important to bear in mind two critical premises of the legislation. First, the justification of home-team blackouts is to give the sports entrepreneur the maximum opportunity to sell tickets to the stadium where the game is being played—what is sometimes referred to as "protecting the gate". The sports anti-blackout law is fully consistent with this legitimate business objective because its provisions are only operative when the stadium is sold out in advance.

The second premise is the tremendous popularity of professional sports, particularly football. This popularity, which in general brings great financial rewards to the sports entrepreneur, has been stimulated by television coverage, which makes the events available to virtually every American. And, in turn, this coverage is made possible by an exemption for the sports entrepreneur from the antitrust laws, which permits league sale of television rights.

Therefore, the legislation which lifts blackouts on sold-out games should be considered as a public interest *quid pro quo* for the legislation which provides an antitrust exemption. Then, when home games are sold out in advance, the home-team fans who cannot buy tickets are able to enjoy the events on television.

The law has been in effect for two professional football seasons. The FCC's reports show that for 1973 there were 109 of the 182 regular season games sold out sufficiently far in advance that the home market blackout was lifted. For 1974, it was 86 games. Thus, in two seasons, 195 regular season football games which would not otherwise have been available to the public in the communities where they were played were broadcast by free television. In addition, over the same period there was no blackout for 11 play-off and Super Bowl games. It is thus self-evident that there has been a very substantial public interest benefit flowing from the legislation.

Now, what are the arguments for letting the law expire and returning to blackouts of all home games?

When this legislation was first being considered, its opponents forecast two supposed problems, both premised on the fact that if games were shown on local television many ticket holders would become "no-shows". One problem cited was that these "no-shows" would hurt ancillary revenues, such as parking and concessions. Secondly, they warned that half-empty stadiums would turn the games into studio-like shows without the excitement and roar of a house full of fans.

The FCC reports show that these fears have not materialized in any significant degree. Although in both 1973 and 1974 there was some increase in the number of "no-shows" over the previous year, the number was modest in relationship to overall attendance. Actual attendance was 9.7 million in 1973 and 9.1 million in 1974. This contrasts with the last year before the legislation was effective when actual attendance was 9.8 million (less an unknown amount for unrecorded Dallas "no-shows"). The comparatively small increase in "no-shows" clearly has not turned professional football into a studio sport.

The FCC's second report contains a statistical analysis which supports the conclusion that bad weather conditions, especially rain and snow, and poor team standing, were much more important influences on the number of "no-shows" than was the anti-blackout law. The FCC analysis also shows that the anti-blackout law has had no statistically significant effect on season ticket sales.

Obviously, any increase in "no-shows" has some adverse effect on ancillary revenues. However, based upon data in the FCC reports the loss would not appear great, particularly in the context of the multimillion dollar business which is professional football. Also, the reports point out that in most instances the football clubs do not even share in parking and concession revenues.

The National Football League did experience certain adverse business in 1974. First, a players' strike during the pre-season may have had carry-over effects. Second, the clubs experienced sharply increased operating costs, as well as a competitive threat from the World Football League which bid up player salaries. Third, national economic conditions were generally soft, with special problems present in the energy area. There is reason to believe that these three problems were much more significant than was the anti-blackout legislation.

There is one additional consequence of the anti-blackout law which should be noted. The traditional home-team blackout did not apply to radio, and consequently the radio rights to blacked-out games had considerable value. When blackouts were lifted, these rights became less valuable, and in some instances refunds had to be made. We believe that in the long run any decline in radio rights revenues will most likely be offset by gains in television rights revenues.

What seems clear is that on balance the sports anti-blackout law has benefited the public. It has resulted in many football fans throughout the Nation having available through television the games of their home teams. Although we can understand that the sports interests would prefer to preserve the blackout, we think that the burden associated with lifting it where games are sold out is not unreasonable in view of the obvious financial advantage to the teams from the antitrust exemption. Therefore, we recommend that Section 331 be continued.

S. 2554 would also make special provision for post-season baseball, basketball and hockey games by providing that the blackout would be lifted if the games are sold out 24 hours in advance—rather than the general rule of 72 hours in advance. The reason for this special provision is that such post-season games are typically scheduled on a series basis and often on short notice such that a sellout 72 hours in advance is impossible or most unlikely. In these instances, the 24 hours advance sellout provision appears appropriate.

Finally, S. 2554 would continue the experimental nature of Section 331 for an additional three years. Although ABC supports continuation of Section 331, we believe that there is now sufficient empirical data to warrant abandoning the experimental aspect of the law and making it permanent. Of course, if it should ever prove that a return to blackouts of sold-out home games is in the public interest, Congress could consider a change in the statute. Obviously, ABC has no interest in putting in jeopardy the future of the professional sports it has so enthusiastically presented to the public by television.

In conclusion, ABC supports continuation of Section 331.

Thank you.

CBS INC.,
New York, N.Y., November 25, 1975.

HON. JOHN O. PASTORE,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PASTORE: CBS welcomes this opportunity to present to the Senate Commerce Committee our views on S. 2554, and we request that this letter be made part of the record.

CBS supported passage of what is now Public Law 93-107, which has made it possible for the home-town audience to view the previously blacked-out, sold-out home games of their local professional sports teams. CBS firmly believes that it is in the public interest that such games under a league contract should continue to be made available to free television.

This is the third season that sports leagues have operated under Public Law 93-107. Our experience clearly demonstrates that the law has worked in the public interest. There is little doubt, based on audience statistics, that the public would much prefer to watch a game involving a home team rather than a game involving two non-local teams.

The public wants to see its home team play and free television wants to make these games available. In fact, during the first two seasons of operation under the statute, there was only one occasion when a CBS Television Network station determined not to carry a game for which the blackout was lifted, and then only because a critically important game was shown.

The only question at issue now is whether the anti-blackout law should be extended permanently or whether a limited extension, as provided in S. 2554, is more appropriate. In our view, the facts overwhelmingly favor a permanent extension. Public Law 93-107 has had a two-year trial period, a more than adequate period of time to measure impact. The sports fans are now offered the games they prefer to watch. Based on the FCC reports to the Congress, there has been little—if any—financial impact on the sports affected by the legislation. Under these conditions, we cannot understand why the Congress should be required to take up this matter triennially.

There is still a loophole in the legislation that should be closed. The law should prohibit any cable or pay cable system from originating broadcasts of any non-sold out, blacked-out home games in the blacked-out area. If this loophole is not closed, siphoning off of more and more of free television's attractions may result in all such attractions being available only on pay television. This is the path that pay television hopes to follow. When free television originates sports coverage it is available to all—including cable subscribers. When cable originates sports programs, only its subscribers can receive it—and then only at a price.

The interest of professional sports in the use of cable and pay television is not imagined. The November 1975 issue of *Media Decisions* carries a question and answer exchange with Alexander Hadden, general counsel for major league baseball, in which the following appears:

Question: "Are the baseball owners overly occupied with looking down the road toward pay TV via cable?"

Mr. Hadden: "We are interested in keeping abreast of all developing technology in cable TV as it might relate to major league baseball. Some day the opportunity will present itself for major league baseball to determine how what is known as pay TV can serve as a tool for professional baseball."

Broadcasting magazine of November 24, 1975, carries the following item under the heading "HBO grabs more sports":

"Expanded pay cable coverage of live sports has been announced by Home Box Office, New York. HBO has signed an agreement with the National Basketball Association for showing selected home games of the Buffalo (N.Y.) Braves, the Golden State Warriors, and the Portland (Ore.) Trail Blazers. HBO also signed a three-year contract for broadcast and telecast of events from the Los Angeles Forum, including the Los Angeles Lakers basketball team and the city's Kings hockey team. The Forum is principally owned by Jack Kent Cooke, principal owner of Teleprompter. HBO, which currently serves nearly 250,000 pay-TV subscribers, has been carrying home games of the New York Knickerbockers, New York Mets, Milwaukee Bucks and Boston Celtics."

Public Law 93-107, in its brief history, has earned the Congress the overwhelming praise and thanks of the nation's sports fans who have been able to see more of the games they want. A permanent extension will earn the continued plaudits of the fans.

Sincerely,

J. A. SCHNEIDER,
President.

BASEBALL,
OFFICE OF THE COMMISSIONER,
New York, N.Y., December 2, 1975.

Hon. JOHN O. PASTORE,
*U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.*

DEAR SENATOR PASTORE: In response to the invitation of the Subcommittee, I appreciate the opportunity to express the views of Baseball with regard to S. 2554. S. 2554 proposes to extend Public Law 93-107 for another three years and would change the 72 hour trigger for its application to 24 hours for post-season games.

We have carefully reviewed the operation of Public Law 93-107 on Baseball. We know of no circumstances in which the provisions of that law have been applied so as to require a sold-out home game to be made available to a local television station. While we originally opposed this provision as a matter of principle, our experience under that provision has not indicated that it has had, or is apt to have, any impact on Baseball. Of course, the application of the existing legislation may well have had a quite different impact upon the other professional sports; they have had an opportunity to document that impact for you and the members of your Subcommittee.

As to the World Series, the League Championship Series, and the All Star Game, the point is moot because it has been Baseball's practice to telecast those games in the home city whether or not they are sold out, as an accommodation to baseball fans.

We have looked at our experience for the 25 Saturday Games-of-the-Week in 1974 telecast on a network basis. None was sold out; therefore, Public Law 93-107 has had no application to these games.

In 1974, there were also 15 Monday Night Games telecast on a network basis. Only one game was a sellout, although it was not sold out 72 hours in advance. That game was played April 8th at Atlanta, during which Henry Aaron broke Babe Ruth's home run record. Every seat in the stadium that night was eventually sold. However, 10,000 general admission tickets were available for sale at the gate. Those tickets were being purchased at windows as late as two hours before game time. Nevertheless, even though Public Law 93-107 did not apply in that instance, the Braves voluntarily agreed to telecast the game in Atlanta.

I believe our 1975 experience with the Game-of-the-Week is comparable to that in 1974.

As I noted, based upon this experience, there is no factual basis for Baseball to oppose an extension of the blackout legislation. However, because conditions could change quite significantly in the future, it might be wise for Congress to place a terminal date on this legislation, as is the case with S. 2554, so that professional sports might have an opportunity in the future to present additional relevant information to the Congress.

If there is any further way in which we can be of assistance, please do not hesitate to so inform me.

Sincerely yours,

BOWIE KUHN,
Commissioner of Baseball.



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