



MEMORANDUM

To: Members, Energy and Commerce Committee
From: Majority Staff
Re: Communications and Technology Subcommittee Hearing

I. INTRODUCTION

The Subcommittee on Communications and Technology has scheduled a hearing on Wednesday, January 31, 2024, at 10:30 a.m. (ET) in 2322 Rayburn House Office Building. The hearing title is “TV Timeout: Understanding Sports Media Rights.” The following witnesses are expected to testify:

II. WITNESSES

- Brian Lawlor, President, Scripps Sports
- John Ourand, Sports Correspondent, Puck News
- Rob Thun, Chief Content Officer, DirecTV
- John Bergmayer, Legal Director, Public Knowledge

III. HISTORY OF SPORTS MEDIA

In 1939, the United States had its first live televised sporting event.¹ Following World War II, American consumers began buying televisions and live sports became more popular.² Cable TV, and later satellite, greatly increased the number of channels and local options for consumers, allowing more sports coverage.³

Today, networks –broadcast live sports on TVs across the country. Additionally, almost every market has a regional sports network (RSN), which is a cable TV station that presents sports programming to a local area.⁴ The vast majority of Major League Baseball (MLB),

¹ First televised sporting event happened 80 years ago today, NBC SPORTS (accessed January 25, 2024), <https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/first-televised-sporting-event-happened-80-years-ago-today>.

² Impact of Television, THE NATIONAL FOOTBALL LEAGUE (accessed January 19, 2024), <https://operations.nfl.com/gameday/technology/impact-of-television/>.

³ Ben Strauss, *How cable changed sports and what happens when fans cut the cord*, THE WASHINGTON POST (Apr. 19, 2023), <https://www.washingtonpost.com/sports/2023/04/19/rsn-bankruptcy-sports-tv/>.

⁴ *Id.*

National Hockey League (NHL), and National Basketball Association (NBA) games are shown on local RSNs.⁵

IV. CONSUMER BEHAVIOR

Viewers have more options than ever before to watch live sports. As of March 2023, traditional broadcast television remained the preferred method for watching live sports among Americans: 57 percent of consumers chose to view baseball and basketball games via cable, satellite, or antenna services.⁶ But the widespread availability of high-speed internet has led many consumers to switch from cable subscriptions to streaming services for more flexibility, and more affordable contracts with greater freedom.⁷ In 2017, there were nearly 94 million Multichannel Video Programming Distributor (MVPD) subscribers but that number fell to 69.2 million in 2021.⁸ The numbers are projected to continue to fall in the coming years. Live sports viewing is seen as the main reason to keep a cable subscription, with 43 percent of cable subscribers saying they will not cut their cord because of sports coverage.⁹

Despite the wide availability, the myriad of options to watch sports has some drawbacks. A 2023 study found that 35 percent of sport fans find sport video content too expensive, 30 percent said they did not know which channel was broadcasting the event they were trying to watch, and 28 percent did not know which platform to watch.¹⁰

The National Football League (NFL) games are the most popular content on TV. In 2023, more Americans watched NFL games on television than any other programming, accounting for 93 of the top 100 broadcast programs.¹¹ In 2022, the NFL accounted for 82 of the top 100 TV broadcasts, up from 61 just five years ago.¹² Viewers watched a combined 974.7 billion minutes of NFL in 2023, followed by the MLB at 329.7 billion minutes, the NBA at 285.2 billion

⁵ *Id.*

⁶ Julia Stoll, *Preferences for viewing selected live sports in the U.S. 2023, by platform type*, STATISTA (Nov. 20, 2023), <https://www.statista.com/statistics/1418852/us-live-sports-viewing-preferences/#:~:text=As%20of%20March%202023%2C%20the,%2C%20satellite%2C%20or%20antenna%20services>.

⁷ Steve McCaskill, *Cable disarray, the future of the NBA and the rise of women's sports: The state of play in US sports broadcasting*, SPORTSPRO (Nov. 23, 2023), <https://www.sportspromedia.com/insights/features/usa-sports-broadcasting-2023-cable-rsn-nba-tv/>.

⁸ Federal Communications Commission, *Consolidated Communications Marketplace Report*, Report, GN Docket No. 18-231, FCC 18-181, para. 54, (Dec. 26, 2018), <https://docs.fcc.gov/public/attachments/FCC-18-181A1.pdf>; see also Federal Communications Commission, *Consolidated Communications Marketplace Report*, Report, GN Docket No. 22-203, FCC 22-103, para. 218 (Dec. 30, 2022), <https://docs.fcc.gov/public/attachments/FCC-22-103A1.pdf>.

⁹ McCaskill, *supra* note 7; see also Milica Lukić, *23 Interesting Sports Streaming Statistics to Show How Bit it is in 2023*, PLAY TODAY (July 19, 2023), <https://playtoday.co/blog/stats/sports-streaming-statistics/>.

¹⁰ Altman Solon Survey: Global Sports Fans Want More Sports Video Content but 60% Can't Find or Afford Content, ALTMAN SOLON (Oct. 31, 2023), <https://www.altmansolon.com/news-and-events/fans-want-more-sports-content/>.

¹¹ Brad Adgate, *NFL Games Made Up 93% of the Most Watched TV Programs in 2023*, FORBES (Jan. 5, 2024), <https://www.forbes.com/sites/bradadgate/2024/01/05/nfl-games-made-up-93-of-the-most-watched-tv-programs-in-2023/?sh=60739df95cf3>.

¹² Anthony Crupi, *NFL Swallows TV Whole, With 93 of Year's Top 100 Broadcasts*, SPORTICO (Jan. 5, 2024), <https://www.sportico.com/business/media/2024/nfl-posts-93-of-top-100-tv-broadcasts-2023-1234761753/>.

minutes, the NHL at 182.3 billion minutes, and Major League Soccer (MLS) at 3.1 billion minutes.¹³

The NFL continues to expand how consumers can view their content. Thursday Night Football is offered exclusively on Amazon Prime Video (with a simulcast available for broadcast in the teams' home markets).¹⁴ On January 13, 2023, the NFL offered its first exclusively streamed playoff game on Peacock.¹⁵ That game, between the Miami Dolphins and Kansas City Chiefs, averaged 23 million viewers, up 6 percent from the previous year's prime-time American Football Conference (AFC) Wild Card game on NBC.¹⁶ The Peacock game was the most watched streaming program in U.S. history.¹⁷ However, the decision to show the game exclusively on a streaming platform angered many fans, media members, and players.¹⁸ In contrast, the following night's playoff game between the Los Angeles Rams and Detroit Lions averaged 35.8 million viewers between both streaming and live broadcast.¹⁹

V. COST OF CONTENT

The popularity of live sports, combined with the relatively fixed supply of sports content, has led to the rising cost of rights to air or stream sporting events. Media distribution rights in the U.S. for professional and college sports grew at an annual rate of 6.3 percent from \$15.5 billion in 2018 to \$19.8 billion in 2022 and are expected to reach \$31.6 billion by 2030.²⁰

Because NFL games are so popular among viewers, the NFL can charge more for media rights. Unlike other leagues, the NFL owns the rights to all its games. The NFL is guaranteed \$125.5 billion in television rights over the next decade.²¹ In 2021, the NFL agreed to new TV

¹³ *Most watched sports leagues in the United States in 2023, by minutes watched*, STATISTA (Dec. 2023), <https://www.statista.com/statistics/1430289/most-watched-sports-leagues-usa/>.

¹⁴ Alex Sherman, *Amazon's exclusive 'Thursday Night Football' package will begin in 2022 instead of 2023*, CNBC (May 3, 2021), <https://www.cnbc.com/2021/05/03/amazons-thursday-night-football-package-will-begin-in-2022-instead-of-2023.html>.

¹⁵ The game also broadcasted in the teams' home markets.

¹⁶ Anthony Crupi, *NFL Streaming on Peacock Pays Off as Dolphins-Chiefs Draw 23 Million*, Sportico (Jan. 15, 2024), <https://www.sportico.com/business/media/2024/nfl-wild-card-peacock-dolphins-chiefs-viewers-1234762864/>.

¹⁷ Siladitya Ray, *Chiefs Vs. Dolphins On Peacock Was Most-Watched Livestream In U.S. History*, NBCUniversal Says, *Forbes* (Jan. 15, 2024), <https://www.forbes.com/sites/siladityaray/2024/01/15/chiefs-vs-dolphins-playoff-game-on-peacock-was-the-most-watched-live-streaming-event-in-us-history-nbc-says/?sh=34ad21e95f92>

¹⁸ Karl Rasmussen, *NCB Bragged About Streaming Numbers for Peacock-Only Playoff Game, and Fans Didn't Want to Hear It*, SI (Jan. 14, 2024), <https://www.si.com/nfl/2024/01/15/nbc-bragged-streaming-numbers-peacock-only-playoff-game>.

¹⁹ Kyle Meinke, *Lions-Rams draws biggest prime-time TV audience since Super Bowl*, MICHIGAN LIVE (Jan. 16, 2024), <https://www.mlive.com/lions/2024/01/more-monster-tv-ratings-lions-rams-biggest-prime-time-event-since-super-bowl.html>.

²⁰ *Disruption in Sports Offer Play for Growth*, MORGAN STANLEY (Aug. 31, 2023), <https://www.morganstanley.com/ideas/sports-broadcasting-media-rights#:~:text=Programming%20rights%20fees%20in%20the,reach%20%2431.6%20billion%20by%202030>.

²¹ Mike Ozanian, *Why the NFL Could Reap More Than \$126 Billion in TV Money by 2033*, FORBES (Aug. 30, 2023), <https://www.forbes.com/sites/mikeozanian/2023/08/30/why-the-nfl-could-reap-more-than-126-billion-in-tv-money-by-2033/?sh=395d3d0015b5>.

rights deals for 2023 to 2033, which distributed game coverage to broadcast TV, cable TV, and streaming platforms.²²

The MLB, NBA, and NHL media rights are set up differently than the NFL. Traditionally, these leagues, or their teams, sell their rights to RSNs, who negotiate for carriage on Multichannel Video Programming Distributors (MVPDs). The decrease in cable subscriptions, however, has led to uncertainty on the future of RSNs. Local sports have long been viewed as a major selling point for cable subscriptions, but, with the decrease in the number of subscribers and the increase in cost of media rights, RSNs are in financial crisis. Warner Brothers/Discovery, which operated three AT&T SportsNet RSNs, has exited the market, while Diamond Sports Group (DSG), which owns the Bally Sports Network of RSNs, has entered bankruptcy and returned or forfeited some of its rights.²³ This gap has provided Big Tech an entryway into local sports programming. In January 2024, Amazon reached a deal with DSG to invest \$115 million into Bally's sports RSNs to avoid bankruptcy. Amazon will now broadcast 40 NBA, NHL, and MLB teams on Amazon Prime Video in addition to local channels.²⁴

VI. KEY QUESTIONS

- What impact has the transition to streaming services had on the acquisition and distribution of sports media rights?
- How do major sports leagues negotiate and structure their media rights deals with broadcasting networks and streaming platforms?
- How have sports media rights evolved over the years, and what key trends have shaped the landscape?

VII. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Kate O'Connor or Giulia Leganski of the Committee Staff at (202) 225-2927.

²² Vinner Iyer, *NFL's new TV rights deal, explained: What \$100 billion package means for fans in 2023 and beyond*, The Sporting News (Mar. 19, 2021), <https://www.sportingnews.com/us/nfl/news/nfl-tv-rights-deals-explained/z4rlycwog3jz1f6pqqdqeogbxf>.

²³ McCaskill, *supra* note 7.

²⁴ Steve McCaskill, *Amazon agrees to invest US \$115m in DSG as part of Bally Sports rescue package*, SPORTSPRO (Jan. 18, 2024), <https://www.sportspromedia.com/news/amazon-dsg-bally-sports-rescue-nba-nhl-mlb/>.