

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: *Sports Blackout Rules*, Report and Order, MB Docket No. 12-3 (September 30, 2014)

Few issues can unite or divide a city as professional sports, and few sports have the power to evoke deeply held emotions as American football.

At the risk of some heresy, I must say that football has long eclipsed baseball as America's national pastime. Even here in D.C., as the amazing Washington Nationals have clinched their division, earned the best record in baseball, and ended the season with an historic no-hitter a few days ago, it remains a fact.

This is true even considering the current fate of Washington's football team, which is saddled with injuries, wrestling with quarterback challenges, and resisting calls to change the team's name for being offensive to Native Americans. And it is true even with a league heavily criticized for its repeated fumbles for insensitivity to spouses and girlfriends, and for not incorporating the principles of The Rooney Rule to hiring advisers to address those headline-grabbing issues which have occurred off the field.

Every year for the seventeen-week period from Labor Day through Christmas Day, 32 teams in the National Football League (NFL), strap up to do battle on the field. Week-in-and-week-out, Americans from every walk of life gather in living rooms, restaurants, sports bars and venues large and small to cheer on their favorite team and players. From Romo to RG III — from Megatron to Manning — from Rogers to Richard Sherman — and from J.J. Watt to Russell Wilson, Americans love this game. Make no mistake about it, football is our national pastime.

We re-arrange our personal lives: weekend errands, Sunday worship schedules... in order to catch those weekly NFL games — a schedule that now extends to both Monday and Thursday nights as well. The reward of regular season success is a ticket to the Super Bowl and the chance to raise the coveted Lombardi Trophy, the pinnacle of football achievement.

Super Bowl weekend has become an unofficial American holiday. In fact, the Super Bowl has become so enshrined in, and essential to, our economy that major corporations build their annual advertising budgets around the commercials, paying hundreds of millions of dollars for 30 and 60 second spots. Of course, these commercials also have a life and culture of their own, but that is another story, with many of the world's top entertainers pegging their career high points — or low points—to half-time performances. In fact, some performances have even become FCC folklore... one in particular, for sure.

Professional football has grown so much in popularity that venues have become pantheons, not only to the sport, but also to those corporate brands seeking the rewards of official sponsorship and team affinity. With the bright lights, jumbotrons, and decibel-bending crowd noise, there is nothing like being in a stadium.

Add to that an expanded array of food, entertainment and retail choices, and it is plain to see that attending an NFL game is quite an experience. Although ticket prices are quite high, most NFL games still sell out, and for those fans, it is an expense well worth the price. But let's be clear — the vast majority of fans cannot afford to even park at a game, let alone attend these extravaganzas.

What is also abundantly clear is that the sports industry has changed significantly since the Sports Blackout Rules were first adopted by the FCC in 1975. Our record finds today that these rules are no longer relevant for any sport other than professional football, which has seen a decline in the number of NFL games blacked out due to failure to sell out. Television revenues have replaced gate receipts as the primary source of revenue for NFL teams, and the FCC believes there is scant chance that teams will choose to move their games to pay TV if the sports blackout rules are abolished, as some charge.

So rightly before us this morning, is an item that eliminates the Sports Blackout Rules for cable operators, satellite carriers and open video systems, and concludes that the Commission has the authority to do so. When I originally circulated this item in November of 2013, I believed the time had come to review FCC regulatory involvement in what is essentially a private set of relationships between the NFL, broadcasters and cable operators. I maintain that belief.

What I especially appreciate about the item before us today is that it furthers the public interest in two key ways. First, by removing unnecessary and outdated regulations, and second, by abandoning regulatory enforcement of the NFL's private blackout policy. While nothing we do can guarantee fans that there will never be another blackout, our decision will take the public policy finger off the scale of being a party to any future blackout. The resolution of future blackout will be left to the parties through their private contractual arrangements, not the FCC.

In sum, the goal of these rules was never to protect the profitability of sports leagues, but to ensure that America's favorite pastime was widely available to television viewers. Keeping the rules no longer make sense. I applaud the Chairman for a sustained drive to take the ball over the goal line by abolishing an outdated rule whose time has expired.