

How the National Football League (NFL) Has Strategically Managed the 1961 Sports Broadcasting Act (SBA) to Gain Market Supremacy in the USA and a Dominant Market Niche in Mexico*

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Resumen

Este artículo traza la historia legal de enfoque estratégico de la NFL para la gestión de la Ley de Transmisión de Deportes de 1961 (SBA), con el fin de dominar el mercado de la transmisión deportiva y darle así supremacía de distribución en el mundo sobre la Liga Mayor de Béisbol (MLB), la Asociación Nacional de Baloncesto (NBA) y la Liga Nacional de Hockey (NHL). Dado que la SBA permitió a la NFL entrar en los derechos exclusivos de emisión con las cadenas de televisión, la NFL ha llevado a cabo este privilegio al extremo, logrando notables calificaciones a nivel mundial y el reconocimiento de su marca. Aunque la gestión de la NFL de la SBA no es la única razón por la que tiene el estatus de liga suprema y las transmisiones televisivas de partidos de la NFL son menos que las de juegos de otras ligas profesionales, la NFL hoy está en una posición ascendente en los mercados de México y Estados Unidos, principalmente debido a las opciones de negocios legítimos de la NFL en la gestión eficaz de la SBA.

Palabras clave: derecho de la información, medios de comunicación, derecho de deportes.

Abstract

This article traces the legal history of the NFL's strategic approach to managing the 1961 Sports Broadcasting Act (SBA) in order to dominate the sports broadcasting market in a way that gives it worldwide distribution supremacy over Major League Baseball (MLB), the National Basketball Association (NBA) and the National Hockey League (NHL). Because the SBA allowed the NFL to enter into exclusive broadcasting rights with television networks, the NFL has executed this privilege to the fullest extent, achieving remarkable worldwide ratings and brand awareness. Though the NFL's management of the SBA is not exclusively responsible for the league's supreme status, and though televised broadcasts of NFL games are fewer than other professional leagues' games, the NFL today finds itself in the ascendant position in the US and Mexican markets mainly due to the NFL's legitimate business options in effectively managing the SBA.

Key words: Media Law, Sports Broadcasting, Sports Law.

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1. Introduction

How is it possible that the most-watched television program in Mexico in the history of audience research was the 2010 NFL Super Bowl?¹ This audience of 10-million exceeded the audience of 8.9 million Mexicans for the World Cup (Seidman, R, 2011). This Super Bowl was a sporting event that took place in the USA and involved two sports teams (Green Bay Packers, Pittsburgh Steelers) from US Cities that are not known to have large Hispanic populations compared to other, mostly southern US cities. This article argues that landmark legislation, the 1961 Sports Broadcasting Act, set up the NFL to become the supreme juggernaut among all sports internationally,² including Mexico.

In 1961, Congress passed the Sports Broadcasting Act (hereafter referred to as the SBA) in order to overturn a Justice Department ruling that CBS and the NFL had violated Anti-trust law by entering into an exclusive agreement to broadcast NFL games. However, the SBA has not fared as well for the other professional team sports leagues, primarily because the other three sports have not followed the quasi totalitarian organizational model of the NFL, which in essence, does not allow individual teams to negotiate television broadcasting rights. Only the NFL has taken advantage of the provisions of the SBA. In contrast, the three other major professional sports leagues allow individual teams to enter into local, regional, and national television broadcasting agreements. The effect of this so-called “one stop shopping” dictated by the NFL drives both domestic and international demand for the NFL’s televised product by allowing the league to have total control over the games that get televised, and it consolidates financial

1 See <http://www.nflhispanic.com/facts.html>.

2 See <http://www.law.indiana.edu/fclj/pubs/v47/no3/cox.html>.

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and franchising power in the hands of the NFL as opposed to the individual teams. In contrast, by allowing individual teams to enter into their own local and regional television broadcasting deals, the other major sports leagues—baseball, basketball, and hockey—have diluted their bargaining position vis-à-vis the networks and cable providers, and ultimately receive less in total television rights fees, and ultimately viewership ratings across the world. Plus these other sports have fragmented the branding to individual teams such as the Yankees, the Lakers, or the Flyers, relegating to a secondary branding status the MLB, NBA and NHL.

In this article we investigate how the NFL's has used the SBA to set into motion a chain of events that has exalted NFL broadcasting to this near untouchable status. First, we undertake a review of the legal history of the Act that resulted from the standoff between the Justice Department and Congress. This history will include a revisiting of the formation of the Act as well as subsequent legislation and court decisions that have cemented the Act's legitimacy and reach. Second, we discuss the unparalleled advantage taken by the NFL under the SBA. Third, we establish how the NFL's television broadcasting rights negotiated in the context of the SBA has enabled the NFL to be so financially successful. Fourth, we review the history of skyrocketing television ratings for NFL broadcasting, including among Mexican viewers. Fifth, we review how the NFL brand has extended into various dominant franchising positions—including the Mexican media market—made possible largely by the SBA. And finally, we discuss several contributing factors that have resulted in the relative advantage realized by the NFL under the SBA when compared with their professional team sport league counterparts.

2. Legal History of the SBA

The NFL has not always enjoyed a position of supremacy in the sport broadcasting industry. In fact, during its first thirty years of existence, the NFL suffered from unsteady team membership as well as competition from rival leagues including the All-American Football Conference, the Canadian Football League (CFL) and the American Football League (AFL). However, by the mid-1950s the NFL had begun to reap benefits from the growing appetites of football fans and the increased competition from its fledgling rival, the AFL. The growth of the sport in turn led television networks to compete for the rights to broadcast NFL games. By the late 1950s, the NFL had begun to receive nearly \$2 million annually from the Columbia Broadcasting System (CBS) in exchange for the rights to televise certain games (Cox, P.M. II, 2011).³ In response to the AFL's league-wide television contract with ABC, the NFL sold a pooled package to CBS in 1961. The pooled package allowed the NFL to negotiate with CBS as a single entity—rather than 14 individual franchises in competition with one another negotiating individual broadcast agreements with CBS—resulting in greater economic leverage and increased rights fees for league-wide US broadcast rights. By pooling broadcasting rights, the NFL sold television rights that covered the entire league, which allowed it to leverage more money than would have otherwise been possible if individual teams were selling their broadcast rights individually.⁴

However, this agreement soon caught the attention of the United States Justice Department and ultimately led to a court ruling that found the NFL and CBS to have vio-

3 Cf. *American Football League v. National Football League*, 323 F.2d 124, 125 (4th Cir. 1963).

4 See, e. g., David M. Van Glish (1994).

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lated the Anti-trust laws (*United States v. National Football League*, 196 F. Supp. 445, 446 (E. D. Pa. 1961). In response to the court's ruling against the NFL in the Anti-trust case, the NFL lobbied Congress for relief, leading to passage of the Sports Broadcasting Act (SBA) less than three months later. Under the SBA, all professional team sports leagues, not just the NFL, could enjoy exemption from the Anti-trust laws when negotiating pooled rights pursuant to their national television contracts (*Sports Broadcasting Act of 1961*, 15 U.S.C. 1291). The spirit of the SBA recognized the need for professional team sports leagues to cooperate as well as compete, especially with regard to marketing and televising their game forms. For example, NFL teams equally share approximately 90% of league revenue, although they do not share in profits and losses. This fosters cooperation among the individual franchises, especially with regard to licensed-merchandise sales, television ratings, and attendance figures.

While the individual teams cooperate in this regard, profits vary widely despite the sharing of revenue. The disparity in profits can be attributed to independent management policies regarding coaches, players, management personnel, ticket prices, concessions, and luxury box seats—all of which contribute to fan support and other income sources—. In addition to being independent business entities, however, NFL clubs do compete with one another off the field. For example, in certain areas of the US where two teams operate in close proximity, there is also competition for fan support, local television and radio revenues, and media space (Paolino, R. C., 2009).⁵

In terms of business structure, the NFL teams are separately owned, with each franchise controlling the rights to its own name, trademarks, and intellectual property. However, the NFL largely controls the development, li-

5 Cf. 726 F.2d 1381 (9th Cir.), cert. denied, 469 U.S. 990 (1984).

censing, and marketing of these properties through the separate entity it formed, National Football League Properties (NFLP) (American Needle, Inc. v. National Football League, *et al.*, 560 U.S., 2010). While the individual teams technically compete for these marketing rights, the NFL controls and evenly distributes almost \$4 billion annually in league broadcast revenues.

The impact of the SBA has facilitated the expansion and prosperity of US professional team sports worldwide, and parallels the rise in importance of the medium of television for delivering professional sporting events to sports fans worldwide in the comforts of their living rooms. The NFL's approach to managing the SBA has resulted in a greater quantity of televised football games being broadcast into US homes, and more profit for NFL and other professional sports leagues (Rivello, I. R., 1998).⁶

In effect, the SBA provides professional sports leagues with unrestricted market power in negotiations for their media rights, and has enabled the various leagues to pool their resources among member organizations, while negotiating as a single entity—all of which has resulted in tremendous growth and prosperity for the leagues as well as the media conglomerates with which they have partnered—. While the leagues and teams have obviously benefitted from increased rights fees paid for their products, at the same time, their network media partners have enjoyed increased revenue from advertisers and sponsors seeking to connect with the captive and much-desired sport-spectator demographic (Van Glish, David M., 1994).

⁶ Cf. United States v. National Football League, 196 F. Supp. 445, 446 (E.D. Pa. 1961).

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3. Financial Success of the NFL

No professional sports league has enjoyed more financial success than the NFL. Currently, the NFL has network television contracts paid a total of \$12 billion through the 2011 season. By comparison, the National Basketball Association (NBA) and Major League Baseball (MLB) have agreements that will generate \$2.4 billion and \$1.5 billion, respectively, through the same time period. The National Hockey League's (NHL) share of network television revenue is negligible; the NHL's television revenue emanates primarily from cable television rights, and is predicted to generate a total of \$72.5 million in 2011 (Gladden, J. and Sutton, W. A., 2011).

While the SBA has provided underlying support for the drive in revenue generation, the SBA has not gone unchallenged in the US courts. These challenges have resulted in limiting the exemption enjoyed by the NFL and other professional sports leagues with regard to cable and satellite rights (Chicago Professional Sports Ltd. Partnership v. NBA (Chi. Prof'l Sports, 808 F. Supp. at 649-60; Chi. Prof'l Sports, 961 F.2d at 671; and Shaw v. Dallas Cowboys Football Club). In particular, the SBA was intended to cover only sponsored network televised broadcasts of professional sports. At the time of enactment, the SBA's purpose did not aim to cover future forms of paid broadcasting, notably cable and satellite television.

For example, in the Chicago Professional Sports case, WGN, the Chicago-based cable superstation, challenged the NBA's restrictions on the number of broadcasts the Bulls sold to WGN, and argued the NBA's practice restrained trade in violation the Anti-trust laws. Both the District Court and the U.S. Court of Appeals for the Seventh Circuit agreed with WGN, and found the NBAs limitations on broadcast rights did in fact violate the Anti-trust laws, reasoning that the SBAs Anti-trust exemption does not ap-

ply to “non sponsored” broadcasts under the Act (Paolino, R. C., 2009; Sports Lawyers Journal, 6 Sports Law. J. 1;⁷ Chi. Prof’l Sports, 961 F.2d at 671). Applying similar reasoning to limiting the exemption with regard to satellite broadcasts in *Shaw v. The Dallas Cowboys Football Club*, No. 97-5184, 1998 U.S. Dist. LEXIS 9896, at 10-11 (E. D. Pa. June 19, 1998), *aff’d*, 172 F.3d 299 (3d Cir. 1999), both the U.S. District Court (E. D. Pa) and the U.S. Court of Appeals for the Third Circuit held that satellite broadcasts did not receive protection under the SBA. But despite the above legal challenges, the bulk of broadcasting-rights fees for NFL games continue to emanate from free, sponsored-network television.

4. Unparalleled Advantage Taken by the NFL under the SBA

Why has the NFL clearly profited the most under the SBA while the other main sports have not, even though the SBA gave them the opportunity to follow the NFL’s paradigm?

The answer to the above question reflects a variety of contributing factors, beginning with the NFL’s lobbying efforts in the US Congress that led to the passage of the SBA in 1961. Symbolic of these efforts was then-Commissioner Pete Rozelle’s testimony in which he assured Congress the SBA would only apply to free, sponsored broadcasts of games, and the NFL would not compete with Friday and Saturday broadcasts of high school and college football games.

These efforts toward passage of the SBA resulted in legislation favorable to the NFL’s television rights strategy; that is, the SBA encourages leagues to negotiate as a single unit and pool packaged network rights of its member

7 Cf. Chi. Prof’l Sports, 808 F. Supp. at 649-60.

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teams—an approach long practiced by the NFL, which shares their considerable television revenue equally among its 32 franchises (Satellite Broadcasting and Communications Association, 2003)—. In contrast, the other professional team sports leagues have not followed the quasi totalitarian organizational model of the NFL, and therefore continue to allow individual franchises to compromise the Anti-trust protection offered a league that negotiates network rights as a single unit. The primary reason the other professional team sport leagues have not taken full advantage of the SBA's provisions that encourage leagues to fully control and pool their broadcasting rights is because big-market teams in the other sports refuse to give up control over their broadcast revenue streams. In effect, the other sports leagues have resisted sacrificing the distinct financial advantage that major-media-market teams enjoy through local television broadcasting rights. These inherent forces include individual franchises (*e. g.* New York Yankees, Boston Celtics, and Chicago Black Hawks) as well as powerful ownership groups like Cablevision, Disney, and Comcast.

By comparison, the NFL has constructed a particular “league-think approach” in which teams function together collectively, with some teams sacrificing the potential for higher profits in the interest of league growth and stability.” As a result, the NFL pools 90% of league revenue—which ultimately facilitates the ability of franchises to compete (Gladden, J. and Sutton, W. A., 2011, p. 125)—. The effect has created an on-field product unparalleled by the other professional leagues in terms of competitive parity. This parity reflects a system in place that values the success of its membership and produces a relatively more attractive product for the fans to watch. The evidence lies in advantageous broadcast rights and ratings enjoyed by the NFL—relative to the other leagues—together with the lucrative return on investment shared by NFL advertisers and

sponsors. In effect, the NFL's mastery in managing league affairs, notably in the area of network-rights negotiations, has enabled the NFL to avoid the kinds of disparities that exist in the other professional sport leagues. In contrast, MLB is modeled on system comprised of "big" and "small" market teams, with teams in major media markets benefitting the most from lucrative local broadcast rights not shared with the league. The consequence becomes a disparate system of "haves" and "have nots," with profits realized by "big-market" teams facilitating their pursuit of high-priced free agents, and "small-market" teams financially unable to compete for this talent.

This leaves small-market teams at a significant disadvantage in terms of fielding competitive teams, ultimately diminishing their ability to compete not only on the field but also in terms of the financial, media, and marketing rewards realized by their large market competitors. This kind of scenario does not present itself in the NFL, with teams in so-called small market cities such as Green Bay, Nashville, and Charlotte fielding competitive teams that have played for the league championship in the last decade—all because of the SBA—. Next, this article will expand on the supremacy of the NFL by discussing individual successes due to the way the NFL has structured its broadcasting rights vis-à-vis the SBA.

5. Success of NFL TV Ratings

The compact that the NFL and TV networks have created pursuant to the SBA has provided for tremendous growth in television ratings—such that baseball cannot really be called the "national past time"—. Because the SBA guarantees the right of the NFL to negotiate exclusively with individual networks, and the NFL has exercised this privilege to its fullest extent by limiting the offerings of broadcast games to fewer television channels than would

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be the case of the SBA were not in place, audience demand for pro football has been significantly enhanced.

Today, the NFL has managed the SBA to establish itself as the USA's most popular televised sport across several broadcast day parts. The first area of domination is the consistent popularity of the annual NFL grand championship, otherwise known as the Super Bowl. In 2011, the Super Bowl was the most-watched television program in U.S. history, drawing 106.5 million viewers (Nielsen Wire, 2011). This is an impressive feat because the prior record for the most-watched television program was set by the final episode of *M*A*S*H* in 1983. Moreover, the Super Bowl has been a strong ratings driver over the duration of its history. Since 1970, each annual Super Bowl has garnered an audience rating of at least 40, and a share of at least 60. The popularity of the Super Bowl has also captured significant USA Hispanic viewership, becoming the most popular TV event (not just the most popular "sporting" TV event) ever among US Hispanics, achieving an audience of 32 million viewers.⁸ This incredible reach among Hispanics was the end result of the NFL leveraging its brand to appeal to Hispanics (see next section). Running parallel to the meteoric ratings success, the cost of a 30-second ad during the Super Bowl fetched \$78,000 in 1970 but had risen to \$3,000,000 in 2011 (TV By The Numbers, 2011).

In contrast, television ratings for World Series baseball games have been declining steadily since the 1980s, and in 2010 were no higher than 9, for a 15 share of the audience. Granted that there are several baseball games played in this grand championship versus just the one football game that is played in the Super Bowl championship; but still the rating numbers of televised baseball games are nowhere near those of NFL games.

8 See <http://www.nflhispanic.com/facts.html>.

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The second area of domination is the popularity of NFL playoff games. The audience figures for single NFL playoff games not only dwarfs all other sports, but also other genres of television programming. The chart below shows that in 2011, 8 of the top 10 television programs in terms of audience size were NFL games. And one of these NFL-related broadcasts —the Super Bowl Post Game Show— was not even an actual football game.

<i>Top 10 TV Programs – Single Telecast 2010</i>				
Rank	<i>Telecast</i>	<i>Originator</i>	<i>Date Aired</i>	<i>Total Persons Rating</i>
1	Super Bowl XLIV	CBS	2/7/10	36.5
2	Super Bowl XLIV Post Game	CBS	2/7/10	25.8
3	Super Bowl Kick-Off	CBS	2/7/10	20.8
4	FOX NFC Championship	FOX	1/24/10	19.8
5	AFC Championship on CBS	CBS	1/24/10	16.1
6	Academy Awards	ABC	3/7/10	14.3
7	Undercover Boss	CBS	2/7/10	13.2
8	FOX NFC Playoff-Sun	FOX	1/17/10	12.9
9	AFC Divisional Playoff-Sun	CBS	1/17/10	12.2
10	FOX NFC Wildcard Game	FOX	1/10/10	11.8
Source: The Nielsen Company.				

Moreover, the popularity of televised NFL games is not limited to men because women account for approximately 1/3 of the audience (Nielsen blog, 2011).

A third area of domination is the popularity of televised individual games versus other sports. Consider that The Yankees-Red Sox rivalry represents one of the premiere rivalries across all sports, and both teams are from high-population cities. However, in 2010 the NFL pre-season game between the Dallas Cowboys and the Cincinnati

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Bengals was broadcast on the same day that a regular-season baseball game between New York Yankees and Boston Red Sox was being broadcast. Yet the NFL game garnered a 7.6 rating compared to the distant 2.7 rating for the Yankees-Red Sox game (Bleacher Report, 2010).

6. Success of NFL Brand

The NFL represents the strongest of the televised brands in professional team sports worldwide, and this is in large part due to the relatively high ratings the NFL has generated over the years compared to ratings of other sports. Here we ask the readers to rhetorically consider what is the first brand that comes to mind when watching a professional football game versus a baseball game, or a basketball game, or a hockey game? We posit that for football, the NFL brand comes to mind first, but that for the other sports, individual team brands come to mind —*i. e.* Yankees-Red Sox, Lakers-Celtics, Flyers-Rangers, rather than the MLB, the NBA, and the NHL—. In the case of the NFL's fans, television ratings reflect a powerful form of brand equity developed over the past 50 years, due in large part to the NFL's strategic management of the SBA to carefully control the access—and the choices made available—to its consumers. This supports the contention that the NFL brand has superseded the individual games far greater than the other sports.

Furthermore, the consolidation of decision-making power by the NFL in the wake of the SBA has extended the broadcasting brand of the NFL in three major directions that are unrivaled by the brands of the other three major sports. The first direction is the grand championship, or Super Bowl. Earlier we established that of all annual television events (including both sporting and non-sporting televised programs), the Super Bowl consistently accrues the largest audience ratings, with the 2011 Super Bowl de-

livering a rating of 44 —a mighty feat in an age where the landscape of television competes also with video games, internet television, DVD/Blue Ray home theater, and video games—.

But consider also that the Super Bowl more than any other sport championship is not just the event of a game but instead has been successfully branded as an entire “game day” involving traditional foods and drinks (chicken wings, beer), getting together with friends, and viewing pre-game and post-game shows as well as the actual football game. In terms of corporate sponsorship, the Super Bowl has long been referred to as the “Woodstock of Corporate America,” with 30-second television commercials sold at a clip of 3 million dollars for the 2012 Super Bowl (Hiestand, 2012). The branding of the Super Bowl as an all-day event has helped to position the Post-Game television show as the second-highest ratings generator in 2011. Just in the Dallas region alone —where the 2011 Super Bowl was played— revenue generated from ticket sales and concessions totaled some 200 million dollars (USA Today, February 3, 2011). The Super Bowl as an all-day event has injected large revenue streams for ancillary business revolving around the sales of beer, charcoal, chicken wings, jerseys, and many other products associated with festivities before the game, during the game, and after the game. When expanding the assessment of revenue to include ancillary products and services (food, barbeques, television sets, etcetera) as well as ticket sales, the figure is approximately 500 million dollars (National Public Radio, February 3, 2011). According to UCLA economist Lee Ohanian, the Super Bowl is the second biggest day of spending money on food, next to Thanksgiving (*YouTube* interview). Moreover, revenue generated across the world by the Super Bowl reigns supreme over all other sport brands, including soccer, the world’s most popular sport (ESPN, January 31, 2007). Again, even tak-

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ing into account that other sporting-event grand championships such as baseball's World Series, basketball's NBA Championship, and hockey's Stanley Cup, involve a "best of" series in which more than one game is played in the championship, the Super Bowl brand still far outweighs the cumulative value of the brands of other sports.

The Super Bowl brand has become ingrained in the US as a national celebration. The Super Bowl has become so full of pageantry, that robust viewership interest has long transcended watching the game itself. The Super Bowl has become a primary reason for friends and family to get together. The Super Bowl has become the primary event by which national advertisers have rolled out new advertising brands of existing and new products and services. The Super Bowl has become a broadcaster's event enabling them to preview their spring programming before a large, captive audience. And the Super Bowl halftime has become a core family feature of the event, bringing in some of the biggest names in rock and pop music to perform for legions of fans of all ages. Surrounding all of these features of the Super Bowl is a constant montage of imagery appealing to American patriotism through flags, music, dress, and other symbolic references. The evolution of the Super Bowl as an almost mandatory television viewing event has led scores of sports writers, fans, and even economists to either call for the day after the event to be designated as a national holiday, or to declare that it has already become an unofficial but universally-recognized national holiday. Joe Ramirez of the Bleacher Report (February 6, 2011) captures the sentiment of many such advocates for a Super Bowl national holiday in his open letter to President Obama:

After all, the Super Bowl is more symbolic of America than a bald eagle eating apple pie on the Statue of Liberty.... Super Bowl Sunday is one of the most powerful influences on our

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country's culture. For one day, the Super Bowl completely changes the American way of life.

The second direction in which the NFL brand has been extended is Monday Night Football. Demonstrating much of the appeal that the Super Bowl exhibits, but on a more micro level, Monday Night Football remains one of the longest-running ratings generators for the contracted television network. Usurping an audience that would otherwise be searching for leisurely television viewing in the aftermath of the weekend, Monday Night Football has become a weekly ritual of television viewing that has a long and storied history involving famous announcers (Howard Cosell, John Madden), a theme song that many can spontaneously hum in their heads, and consistently high ratings. Since 2006, ESPN has exclusively aired Monday night football; its broadcast of the October 5, 2009 game between the Minnesota Vikings and the Green Bay Packers captured cable's biggest television audience ever, 21.8 million viewers (Digital Spy, March 29, 2010). The NFL brand of Monday Night football is far more prominent than Sunday night baseball or any other weekly sporting event. These two extensions of the brand of the NFL—the Super Bowl, and Monday Night Football—add to the dominance of the NFL broadcasts over other sports broadcasts.

The third direction where the NFL brand has been extended is worldwide, with Mexico serving as a corner stone of this strategy.⁹ The deal the NFL negotiated with ESPN International makes Mexico second only to Canada as the country housing the largest viewership for the NFL, with 16.5 million fans in Mexico.¹⁰ Had the NFL not constructed itself as the exclusive negotiator for distribution rights—in

⁹ See <http://www.banderasnews.com/0612/nw-mexnfl.htm>).

¹⁰ See <http://www.tampabay.com/news/nation/rising-nfl-viewership-signals-cultural-shift-for-hispanics/1048233>; <http://articles.latimes.com/2010/jan/29/sports/la-sp-nfl-mexico29-2010jan29>.

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this case with ESPN international—there would not be the massive worldwide reach there is for the NFL brand.

Due to the way the NFL has managed the SBA, several licensing agreements have been opened up in foreign markets, with Mexico vaulted to second place among worldwide viewership, trailing only native-English-speaking Canada. Beginning in 1974 when the Mexican network Televisa began broadcasting NFL games with its own Spanish-language commentators, and then in 2005 when the first NFL game between the Arizona Cardinals and the Pittsburgh Steelers was watched by 103,000 fans in Mexico City,¹¹ the NFL has pursued a clever marketing strategy that has proliferated an impressive fan base in Mexico. Over the years, the NFL has signed deals with Spanish-language media outlets ESPN Deportes, Univision, Telemundo and Fox Sports en Español.¹² Recently, the NFL signed a deal with Cinemax in Mexico City to broadcast NFL games in big screen TVs in cinemas. Beer-maker Corona is one example of a product manufacturer that has latched on to the popularity of the NFL, by placing NFL-team logos on individual cans of Modelo beer sold in Mexico. Today, a remarkable one in five Mexicans claims an interest in NFL games.¹³

7. Conclusion

In its rawest form, football is a game that is played by competitors and viewed by interested spectators. When broadcasting is added to the context of the game, football becomes a televised event that is viewed by exponentially

¹¹ See <http://www.sportbusiness.com/news/158445/nfls-mexico-first-breaks-record>.

¹² See <http://www.satellitetelevision.com/espn-international-enters-deal-to-broadcast-nfl-worldwide-through-2013-14-season/>.

¹³ See <http://www.sportbusiness.com/news/158445/nfls-mexico-first-breaks-record>.

greater numbers of spectators. The Sports Broadcasting Act of 1961 —passed in response to a Justice Department decision seeking to block what was predicted to be a monopolistic control by the NFL over costs of advertising rates and licensing fees— has taken the raw form of a football game and propelled the NFL into a herculean world brand of televised sport. Ironically, therefore, the NFL has strategically managed the SBA to parlay its leverage into exactly the kind of power that drove the legislation to be proposed in the first place. Meanwhile, the other sports have pursued more fragmented and consequently less lucrative negotiations between individual teams and television broadcasters.

In this study, we first reviewed the history of the case law surrounding the SBA. We have established that the case law opened the door for the NFL to subjugate the negotiating rights of individual teams vis-a-vis network television to the will of the NFL. We then established how the NFL used this position of supremacy to leverage revenues on a scale that far surpasses the revenues generated by other sports franchises, in part because their parent entities (MLB, NBA, NHL) have not strategically managed the SBA to consolidate power like the NFL has. Then we covered how the television ratings of NFL-related events dominate other televised sporting events, with a substantial and growing presence in Mexico. And finally, we discussed how the potency of the NFL brand supersedes the MLB, NBA, and NHL brands not only in terms of audience awareness, but also in terms of the grand championship events, as well as weekly broadcasts. We also explored several underlying factors contributing to the advantage taken by the NFL under the Act in comparison to the other professional team sport leagues.

We do not claim in this article that the NFL's management of the SBA is solely responsible for the NFL's incredible success. Nor do we ignore that the NFL has far

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fewer football games being played over the course of a season and also during the playoffs, in comparison with the number of professional baseball, basketball, and hockey games played, which in turn would invite more concentrated viewer interest in the NFL games that are played. However, in conclusion it is clear from the sheer number of viewers accumulated, the prodigious brand awareness, and the billions of dollars generated, that the NFL has uniquely managed the SBA to establish its unrivaled position in USA and in other countries including Mexico.

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