

## The Extra Innings “Poison Pill”

Written by Maury Brown  
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At yesterday’s press conference announcing MLB and DirecTV’s expanded agreement of seven years and \$700 million, there was a sense that MLB had caved—that pressure from the fans, the likes of Senator Kerry and the FCC had won the day, and in the end, Extra Innings would somehow remain on cable (InDemand), and EchoStar’s DISH Network.

“In response to those concerns of our fans, baseball has negotiated with DirecTV to offer the package to the incumbents,” Major League Baseball President Bob DuPuy said. “I hope that those fans who have been directing their concerns to us over the last several weeks will now encourage their cable carriers to in fact enlist for this package.”

Indeed after the announcement, John Kerry’s statements seemed to somewhat back away from threats. “I will review this deal to ensure it benefits consumers,” Kerry said. “I’m encouraged that Major League Baseball may be willing to provide broader access to their games than what was initially proposed.”

MLB and DirecTV were brilliant in how they framed the opening for the other carriers: Place our upcoming *The MLB Channel* on your basic tiers, be consistent with the rates and carriage requirements by March 31st, and we’ll back away from the exclusive deal we have on the table with DirecTV.

I say “brilliant”, as it was a poison pill provision.

Both MLB and DirecTV know that barring something extraordinary, InDemand will never offer up placing *The MLB Channel* on the basic tier. Why? Because the NFL wanted the same thing for *The NFL Network*, and Time Warner, one of the stakeholders of InDemand pulled *The NFL Channel* when the league wanted the channel (you guessed it) on the basic tier.

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“In general, we’ve asked for the equivalent of one movie ticket per subscriber per year for us to be included on their most broadly distributed tier, or basic tier,” said NFL Network spokesman Seth Palansky in September of 2006.

At the time, Time Warner said it didn’t have an “agreement it can live with.”

If InDemand wasn't willing to offer up the basic tier for the NFL, how could they do so with MLB? It would set up all kinds of legal scenarios, and place InDemand in a position of having to offer the same to other sports industries when renewals or new deals are brokered. Some might simply say that DirecTV offered up a better deal.

True to form, comments yesterday by Robert Jacobson, the president and CEO of InDemand, set the stage by calling it a “de facto exclusive deal.”

Jacobson said the agreement contained “conditions for carriage that MLB and DirecTV designed to be impossible for cable and DISH to meet.”

In response, Tim Brosnan, the executive vice president for business for MLB said, “I’m not sure how InDemand can comment on an offer that hasn’t been made.” And he then added that the offers would be coming “in short order”.

So, while you may be cursing through your teeth, you have to say that MLB covered their bases. It was, as mentioned, a set of brilliant business moves.

So, prepare yourself; the exclusive deal is coming. To that end, I will be expanding on the deal Monday on Baseball Prospectus, and offer up some little known aspects of DirecTV that will help you determine whether to make the jump to the satcaster, jump to MLB.TV, or say, “Thanks, but no thanks.”

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