

Opening Statement: Bob DuPuy on DirecTV Deal

Written by Bob DuPuy
Tuesday, 27 March 2007 03:40

STATEMENT OF □ ROBERT A. DUPUY PRESIDENT AND CHIEF OPERATING OFFICER MAJOR LEAGUE BASEBALL

TO THE

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

UNITED STATES SENATE

March 27, 2007

Good morning, Mr. Chairman. My name is Robert DuPuy, and I am the President and Chief Operating Officer of Major League Baseball. I appreciate the opportunity to appear before you today to discuss Baseball's recent agreement with DirecTV for The MLB Channel and the MLB Extra Innings package and to outline what we believe are the deal's benefits for our fans. We are particularly pleased that so many baseball fans will have access to our all-baseball, all-the-time channel when it launches in two years, and we are grateful to DirecTV for helping us make this happen.

It is important to emphasize at the outset that our deal with DirecTV permits iN Demand, the consortium created by the cable industry, and the Dish Network to distribute The MLB Channel and the Extra Innings package also. We hope that they agree to match DirecTV's commitment to our fans. Additionally, we would like to stress that both iN Demand and the Dish Network were given a full opportunity to participate in negotiations for the rights that we were granting.

I want to make one point abundantly clear. This is not a matter of fans being unable to view Major League Baseball's out-of-market games. It is a matter of not being able to watch those games on a particular system. Out-of-market games are still available, even if iN Demand and Dish do not choose to participate, and are available on multiple platforms. Baseball provides more telecasts to its fans than any other sport. After a lengthy negotiation over the renewal of a single package of games, those games were awarded to DirecTV, but even then, the other bidders have been given a chance to match the negotiated terms. There is nothing sinister, illegal, wrongful or frankly unusual about that form of business negotiation or result. In fact, as I will explain later, we believe the result is a benefit to our fans.

If iN Demand and Dish choose not to step up to the plate as DirecTV has done, fans will still have several options. They can switch to DirecTV, they can subscribe to MLB.TV and watch the games on the Internet, and they can watch the roughly 400 games that every fan in every Major League market has available without the out-of-market package. That includes virtually every one of the local market games (Red Sox fans throughout the Red Sox' home

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territory are completely unaffected by this deal), all of the games on ESPN, Turner and Fox, and the All-Star Game and complete post-season. Given that our season and postseason are about 200 days, that is about two games per day. Of course, fans can also listen to local games on the radio and all of our more than 2,400 regular season games nationwide on XM Satellite Radio.

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As I mentioned, business arrangements such as our agreement with DirecTV are not unusual. During the negotiation period, every carrier had an ability to bid, and each of them put in a bid to carry the Extra Innings package exclusively. To watch the Sopranos, you must subscribe to HBO, not Showtime or Cinemax. To watch the NFL out-of-market games, you must subscribe to DirecTV. To watch the NCAA and NASCAR specialized packages, you must similarly subscribe to DirecTV. An even better example involves ironically the behavior of two of the members of the loudest complainant here, the iN Demand consortium. To watch Phillies games in Philadelphia (not in Utah, in Philadelphia) you must subscribe to cable. Comcast, the majority owner of iN Demand and the dominant cable provider in the Philadelphia area, does not make the games available to satellite distributors. Similarly, to watch Padres games in San Diego, you must subscribe to cable because Cox, another member of the iN Demand consortium and the dominant cable provider in the San Diego area, does not make the games available to satellite. In Philadelphia alone, more than 400,000 satellite subscribers are denied the ability to watch their home town Phillies (or Flyers or 76ers) because of Comcast. That is more than twice the number of subscribers the entire iN Demand syndicate had nationally for the Extra Innings package last year. And yet, when after a five month negotiation, iN Demand was the unsuccessful bidder, and even after it was given the ability to match the DirecTV terms and conditions, rather than do so, iN Demand instead complained to Congress for a better business deal than it could negotiate.

As we explained in great detail in our report to the FCC, our agreement with DirecTV, which covers the years 2007 through 2013, has two principal components. First, DirecTV will launch The MLB Channel as part of its "Total Choice" basic service -- with over 15 million subscribers throughout the nation -- when the network becomes available in 2009. The MLB Channel will be the first and only network dedicated to providing baseball programming 24 hours a day, seven days a week on a year-round basis. The MLB Channel will likely include regular-season MLB games, as well as a mix of Spring Training games, Minor League games, games of other professional or amateur leagues, highlight shows and other programming that will be designed to appeal to MLB's broad fan base and that would not otherwise be available to them. DirecTV will have only non-exclusive carriage rights for The MLB Channel, in which it will own a minority stake, and we will aggressively pursue deals with other distributors.

Second, DirecTV will offer its subscribers the MLB Extra Innings package, as it has done

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during each of the last eleven years. This package supplements national and local telecast rights. Again, our agreement with DirecTV also allows Baseball to license the Extra Innings package to those entities that carried it last year, iN Demand and Dish, provided they agree to rates, rights fees and carriage commitments consistent with those to which DirecTV has agreed. This includes a commitment to distribute The MLB Channel to at least 80% of their total residential digital subscribers, which in the case of iN Demand translates to approximately 40% of all the subscribers of its owners, a lower threshold than required for DirecTV, which must distribute it to 80% of all of its subscribers. Retaining the ability to license the Extra Innings package to the Dish Network and the cable universe through iN Demand was something we did because of our desire to provide the greatest amount of baseball to the greatest number of fans.

It bears repeating that nothing in the DirecTV agreement will affect any of the national telecast rights described above or any club's local telecasts rights. Not a single fan needs Extra Innings to watch his or her local team's games. This situation stands in direct contrast to the situation in Philadelphia described earlier, where the regional sports network Comcast SportsNet distributes its

local

games

only via cable, in an area in which Comcast Corporation, owner of Comcast SportsNet, is the dominant cable provider, and the similar situation in San Diego with Cox Channel 4 and its owner Cox Communications, again the dominant cable provider and again involving

home

team

games.

We are excited by the launch of The MLB Channel. Achieving carriage of new programming networks is a difficult proposition in today's telecommunications marketplace, and DirecTV's commitment to distribute The MLB Channel to at least 80% of all its residential subscribers provides an exceptional start for the service. Contrary to statements that iN Demand has made, it has never offered to match this commitment. We hope and expect distribution will increase among other programming distributors. In the meantime, however, at launch 15 million DirecTV subscribers will receive an attractive selection of games and other Baseball programming. During the course of our negotiations with the other distributors, comments have been made -- some might call them threats -- to the effect that if we do not acquiesce to the demands of the other distributors and make Extra Innings available on their terms, then they will never agree to carry The MLB Channel.

Notwithstanding these comments, we are confident that The MLB Channel will be of significant interest to a wide audience, reflecting the broad appeal of our game, even broader than some channels that are currently widely distributed by the other distributors.

It is also to our many fans' great benefit that DirecTV will be carrying the Extra Innings

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package. DirecTV has a proven track record of developing features that significantly enhance the viewing of the telecasts they carry. We were particularly impressed by the types of innovations DirecTV brought to the NFL's out-of-market package "Sunday Ticket" and NASCAR's "Hot Pass." DirecTV's plans for the Extra Innings package include a "mosaic channel" (with up to 8 game telecasts shown simultaneously on a single screen); a "Strike Zone Channel" that provides viewers live cut-ins of games in progress at key points; high definition telecasts; and other innovations to be developed.

We are aware that a limited number of homes in the United States cannot receive satellite delivered programming because of line-of-sight difficulties. We wish that were not the case, but the number of such households is a small fraction compared to the number of households that will receive The MLB Channel beginning in 2009. It has always been Baseball's objective to achieve wide distribution for its telecasts and to serve the greatest number of fans. We believe the launch of The MLB Channel is consistent with that objective and with Baseball's longstanding telecast practices that have generated such an overwhelming number of national and local viewers. Again, we aim to serve the greatest number of our fans, not a small number of distributors.

It is also worth emphasizing that all of the Major League Baseball game telecasts on Extra Innings will be available online through MLB.TV, which, beginning this season, will offer an upgraded picture quality. With future technological developments, we expect the quality of the online viewing experience of our fans to continue to improve. And with the significant growth of broadband penetration (which is now greater than that of digital cable), the total number of subscribers to our out-of-market packages (MLB.TV and Extra Innings combined) is likely to reach new highs in the coming years.

In summary, Mr. Chairman, Baseball believes strongly that the agreement we have reached with DirecTV will provide the most benefits to the greatest number of Baseball fans. Under this deal, we have been guided by this fan-friendly approach because we view that as one of our primary responsibilities and because we believe doing so simply makes good business sense. Under this deal, DirecTV, a long-standing MLB partner that prides itself on customer service, has made a very significant and, in our view, appropriate commitment to its customers and to our fans. As part of this deal, we negotiated to secure for iN Demand and Dish this window of opportunity to continue as distributors of the Extra Innings package. We continue to hope that they will similarly adopt a customer- and fan-friendly approach and capitalize on their right to "opt-in" to this deal on the fair, reasonable and market-based terms offered. Thank you, again, for the opportunity to appear today. I have attached to my written testimony the report on this subject that we submitted to the FCC on March 21.