

**Statement of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Hearing on  
“The FANS Act: Are Sports Blackouts and Antitrust Exemptions Harming Fans,  
Consumers, and the Games Themselves?”  
December 4, 2014**

Last Sunday, millions of Americans gathered around their televisions to watch the much anticipated match-up between the New England Patriots and the Green Bay Packers. This game was one of the highest-rated regular season telecasts in recent years. While many Vermonters were undoubtedly disappointed by the outcome of the game, which Green Bay won by a score of 26-21, thousands of Patriots fans back home were able to watch it without paying a dime because it was available on over-the-air television.

The relationship between sports leagues like the National Football League (NFL) and broadcast television has benefitted all parties. Consumers win because games are available for free, the NFL wins because it reaches the largest possible audience, and, as the ratings show, broadcasters win when NFL games are shown on their stations. I appreciate that of all the leagues, the NFL has been the one to keep the vast majority of its content available on over-the-air television.

Unfortunately, the NFL has policies in place that can result in fans losing access to their local teams on television in certain circumstances. These instances are generally called “blackouts.” The NFL is here to testify at today’s hearing to explain why its blackout policies are necessary and describe what, if any, benefit they have to consumers. Given the fact that Congress has granted the NFL special rights to show its games on television – including the right to blackout games – it should not shy away from explaining the theory behind its policies to the American people.

Blackouts are disruptive and frustrating for consumers. The Federal Communications Commission (FCC) acted recently to repeal its sports blackout rule. Some of the witnesses here today will argue that this action alone has not gone far enough to ensure that consumers will not lose access to local televised games.

I know from experience that Vermonters do not like losing access to games they expect to see. In 2007, during the historic run of the New England Patriots, the season finale against the New York Giants was set to be broadcast on the NFL Network. The Patriots were playing for a perfect regular season record. Vermont is home to both Patriots and Giants fans, meaning this game had great significance to many Vermonters. The NFL’s policy, however, was only to show an NFL Network game on over-the-air television in the local market of the teams playing, in this case Boston and New York City.

I led the Vermont delegation in writing to NFL Commissioner Roger Goodell asking that the game be made available on broadcast television in other New England television markets. The NFL agreed, which is why Vermonters were able to see the Patriots go undefeated on their way to the Super Bowl. I would once again like to extend my thanks to the NFL for that decision.

There is no doubt that the NFL has been dealing with other important issues recently. The scourge of domestic violence is one that our society must continue to confront. I was proud to author the bipartisan Violence Against Women Act Reauthorization Act and steer it through Congress last year to help prevent and combat this terrible problem and provide more help to victims. Laws like this go a long way, but we must always be working to change the culture that allows this kind of violence to go unchecked.

Senator Blumenthal is chairing the hearing this morning. He has long been an advocate for consumers on this and many other issues. I look forward to the discussion that he will be having with the witnesses today.

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