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The Implications of the In Re: NFL “Sunday Ticket” Litigation

For the past 30 years, fans have been able to watch any NFL game at any location in the United States through the NFL’s “Sunday Ticket” package. However, the future of the NFL’s broadcasting model has now been called into question after a federal jury found Sunday Ticket to be a violation of antitrust law. Moreover, as a result, past Sunday Ticket subscribers may be entitled to a substantial monetary payout pending the outcome of a likely lengthy appeals process.

What is “Sunday Ticket”?

The NFL’s “Sunday Ticket on DirecTV” was a broadcasting package offered by DirecTV¹ from 1994-2023 which allowed NFL fans and entertainment venues to watch every out-of-market NFL game for a single fee² each season. Prior to Sunday Ticket, out-of-market fans could only watch their favorite team if they played on national television, which was limited to just three total games each week. Thus, Sunday Ticket created the opportunity for fans to watch their favorite team, or any NFL game, from anywhere in the United States. However, unlike the other major sports leagues,³ the NFL did not offer subscribers the option to purchase a single-team subscription and bundled all the rights of all 32 teams together. Under this model, even if a subscriber only wanted to watch their favorite team, they still had to pay the full Sunday Ticket price.

What Happened in *In Re: NFL Sunday Ticket*?

In 2015, residential and commercial class-action plaintiffs originally filed suit against the NFL alleging Sunday Ticket intentionally eliminated competition and drove up prices for football fans. These classes represent 2.4M residential subscribers and 48,000 commercial establishments who purchased Sunday Ticket during the class period between 2011 and 2023.

Unlike the other major sports leagues, NFL teams pool their broadcasting rights and sell them directly to the networks. Positively, this allows local fans to watch games for free over the air and allows for a service like Sunday Ticket to operate. However, under United States Supreme Court *American Needle* precedent,⁴ each of the NFL’s 32 teams is considered to be a competing business. Thus, under antitrust law, when NFL teams collude with one another, as is the case here with pooled broadcasting rights, their coordination should not cause more economic harm than economic benefit.

¹YouTube TV purchased the rights to Sunday Ticket beginning in the 2023-24 season.

²The residential cost was approximately \$349 per season; while bars and restaurants paid a fee depending on fire code occupancy.

³The NBA, NHL, and MLB offer single-team packages; the NHL was previously sued based on a similar set of facts in 2015. The NHL settled with plaintiffs and agreed to offer single-team packages and reduce the cost of “NHL Center Ice.”

⁴In 2009 the United States Supreme Court struck down the NFL’s argument that its teams are a “single entity” in *American Needle, Inc. v. NFL*, 560 U.S. 183 (2010).

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In the present *In Re: NFL Sunday Ticket* litigation, the class plaintiffs argue NFL teams illegally conspired to not compete and thus manipulated prices by pooling their broadcasting rights and offering only a bundled Sunday Ticket package without a cheaper single-team option. This argument states that, on balance, the unnecessarily high cost of Sunday Ticket outweighs the benefits of having pooled broadcasting rights that allow every NFL game to be available across the country. The NFL rebuts this by arguing that if its teams were forced to compete in licensing out-of-market broadcasts, many teams would simply not attempt to, and consumers would suffer because fewer games would be shown. For example, it is unlikely the Arizona Cardinals would attempt to find a broadcast partner for their fans on the East Coast or in many rural communities. Thus, the NFL argues, the cost of Sunday Ticket reflects the guarantee that fans can watch any game regardless of their location.

However, on June 27, after a three-week trial, a Los Angeles federal jury agreed with the Plaintiffs and found Sunday Ticket to be a violation of antitrust law. The jury awarded plaintiffs \$4.8B⁵ in damages, which could end up as high as \$14.4B after trebling. In addition to the monetary damages, the NFL will have to conform Sunday Ticket to comply with antitrust law, which could threaten Sunday Ticket's existence and the NFL's entire broadcasting model.

What Will Happen Next?

Legal commentators predict⁶ the NFL will initiate a lengthy appeals process that may ultimately end up before the United States Supreme Court.⁷ This process likely will delay any immediate changes to Sunday Ticket, and payments made to plaintiffs, and it could take several years until the case is ultimately resolved. The NFL does have reason for optimism if the case does make its way before the Supreme Court, as Justice Brett Kavanaugh previously indicated support in favor of professional sports leagues pooling broadcasting rights. In 2020, Justice Kavanaugh argued that antitrust law likely does not require that the NFL and its member teams compete against each other with respect to television rights.⁸ Justice Kavanaugh compared pooling broadcasting rights to teams necessarily cooperating in the production and scheduling of games, and distinguished the facts of the present case from *American Needle*. Simply put, this case is far from over.

What to Do If You're Part of the Class

Unless a previous subscriber explicitly opted out of the class, all Sunday Ticket subscribers from 2011-2023 will receive payments if the jury verdict is affirmed on appeal(s). After attorneys' fees are taken out, legal commentators estimate each residential plaintiff will receive approximately \$340 per season subscribed.⁹ Thus, if you were a Sunday Ticket subscriber for the entirety of the class period, you would be entitled to approximately \$3,750. To monitor further updates in this case, visit the NFL Sunday Ticket Antitrust Litigation class action website at <https://www.nflsundayticketsuit.com>.

⁵Residential class plaintiffs received \$4.7B, while commercial class plaintiffs received \$96M.

⁶<https://www.sportico.com/law/analysis/2024/nfl-sunday-ticket-scotus-1234786157/>

⁷However, the NFL will likely seek a Judgment notwithstanding the jury verdict (JNOV) from District Court Judge Phillip Gutierrez arguing that the jury misapplied the law and wrongly decided the case.

⁸The NFL previously applied for certiorari for an interlocutory matter in this case, which the Court denied. However, Justice Kavanaugh indicated the Court likely would grant certiorari if the NFL did not prevail at trial. See *NFL v. Ninth Inning, Inc.*, 592 U.S. ___ (2020).

⁹@JoePompliano on X (previously Twitter).

