
THE CONGRESS PROJECT

Assignment Prompt Sheet

The Sports Broadcasting Act of 1961

Overview

Act Title: Sports Broadcasting Act of 1961

Congress: 87th Congress (1961-1962)

Session/Sessions: 1

Statute No: 75 Stat. 732

Public Law No: 87 PL 331

Eid: 870331

Gid: 241-008

Bill: HR 9096

Sponsor: [Rep. Emanuel Celler \(D-NY\)](#)

House Committees: Judiciary

Senate Committees: Judiciary

Companion Bill: S 2427

Related Bills: HR 8757

House Rules: 85 Hres 595

Past Bills: 86 S 3483; 85 HR 10378

Introduced Date- Law Date:

House Floor Days: 1

Senate Floor Days: 1

Roll Call Votes: 2 (2 in the Senate on 86 S 3483)

Issues: sports; media; communication

Procedures: failure; substitute amendment; suspension; successful Senate motion to recommit

Last Updated: 10/16/23



(Above) Rep. H.R. Gross (R-IA), who during debate over the Sport Broadcasting Act of 1961, inquired as to whether “this bill would, by any chance, help the Senators or the Redskins win a few games (Congressional Record, 87th Congress, September 18, 1961, 20062)?” No direct answer was provided.

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Legislative History Comments

The Sports Broadcasting Act of 1961 (87 PL 331) protects professional sports from anti-trust laws. As [CRS \(2013, 2\)](#) notes, the law was passed “in order to enable members teams of professional sports leagues to pool their separate rights to broadcast their games and to share the revenue from the pooled sale of those rights, without fear of violating the antitrust laws.” After President John F. Kennedy signed the measure into law, NFL Commissioner Pete Rozelle called it “one of the most significant steps in the history of the [NFL].” Since then, the measure has been criticized and the justification for continuing the anti-trust exemption has been frequently questioned (see e.g. [Pickman 2021](#)).

From a process standpoint, bills won’t get much easier than this. The only potentially confusing element stems from breaking this measure up across three congresses. Early bills failed in the 85th Congress (HR 10378), where the measure only passed the House and the 86th Congress (S 3483) where a more liberal bill was killed on the Senate floor. It passed the House by voice vote via suspension in the 87th Congress and the Senate by voice vote as well. It’s not clear to me why that bill was so much easier to enact than the two previous ones.

I added a bit below on what suspension is in the House, but I don’t know if it was needed. You’ll want to pull in some historical newspaper sources and [CQ \(1961\)](#) to get additional information on committee consideration. That piece is really short, so you’ll likely need to supplement it with historical newspapers. Take a look at [CQ \(1960\)](#) and [CQ \(1958\)](#) for a discussion of the earlier bills. Additionally, CRS (2013) is worth a look for additional background on the bill.

And please don’t hesitate to ship questions my way!

Assignments

For the sections below, you’re going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

#1. Open

#2. Open

#3. Open

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Background Questions

1. What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify? How did the law enacted in the 87th Congress differ from the bills debated in the 85th and 86th Congress? [CRS \(2013\)](#) is probably worth a citation here.

My read on it is that it was a pretty watered down compromise (but I could be off). I think S 3483 in the 86th Congress was an attempt by liberals to break the control owners had over players and it failed. On this point see [CQ \(1960\)](#). But I think “why was passing this bill so much easier than previous congressional attempts?” is a key question here.

2. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? Specifically, this measure was passed in response to a number of federal court rulings. Two of those were Supreme Court decisions: The 1922 decision, *Federal Baseball Club of Baltimore v. the National League of Professional Baseball Clubs*; and a 1953 ruling in *Toolson v. New York Yankees*. In 1961, a district court ruling in *United States v. National Football League* barred the NFL from entering a pooled rights agreement with CBS because doing so would violate anti-trust laws. Explain this rulings and the broader legal context that led to this measure.
3. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President’s agenda? What other pieces of legislation were being considered/passed in this Congress? The Stathis (2014) piece might worth a citation here.

Additionally, why was the law needed? Were the professional leagues lobbying for it? Were fans worried?

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Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins or underneath the prompt. Note that the process sections below span several congresses. The first section occurred in the 85th Congress, the second in the 86th Congress and the third, the measure that was finally adopted, in the 87th Congress.

#1. House Consideration of HR 10378 (June 24, 1958)

On June 24th, 1958, Rep. Thomas P. “Tip” O’Neill (D-MA) called up Hres 595, “an open rule” that provided for consideration of HR 10378 (*Congressional Record*, 85th Congress, June 24, 1958, 12073).” During consideration of the special rule, debate was primarily focused on the substance of the bill. Specifically, the committee bill, managed by Rep. Emanuel Celler (D-NY), would have “put baseball and other professional team sports under the antitrust laws.”

A substitute amendment, sponsored by Rep. Francis Walter (D-PA), exempted most activities of professional baseball, hockey, football and basketball from federal antitrust laws (CQ Almanac 1958). Celler asserted that the wide support for the substitute amendment was because “[t]he owners [were] the only ones who have been able to make their views felt (Congressional Record, 85th Congress, June 24th, 1958).” The special rule was adopted by voice vote.¹

#2. Senate Consideration of S 3483 (June 27-28, 1960)

On June 27th, 1960, Senate Majority Leader Lyndon B. Johnson (D-TX) asked for, and received, unanimous consent that on June 28th the Senate “proceed to the consideration of S 3483, the Professional Sports Antitrust Act of 1960 (*Congressional Record*, 86th Congress, June 27, 1960, 14520).” S 3473 was sponsored by Sen. Estes Kefauver (D-TN).

During floor debate on S 3483, Sen. Alexander Wiley (R-WI) that sought to provide “professional baseball the same limited exceptions from antitrust laws as the bill would have provided for pro football, hockey and basketball.”² Despite objection from Kefauver and other bill supporters who claimed the Wiley amendment would “gut the bill”, the amendment [was adopted 45-41](#).³

Afterwards, Sen. John Carroll (D-CO), who had been a prominent supporter of the bill, moved to recommit it to the Senate Judiciary Committee. The motion to recommit [was agreed to 73-12](#).

¹ Celler would later dub the Walter substitute “a peanut bill on the ground only peanut vendors would now be subject to anti-trust laws”. He added that the owners were “out for all the dough they can get.” See *The Washington Post*, 1958. “House Votes Antitrust Exemptions for Sports,” June 25; *The Wall Street Journal*, 1958. “House Votes to Free Professional Sports from Antitrust Laws,” June 25.

² *The Washington Post*. 1960. “Kefauver Sports Bill Killed by Senate Vote: Sports Bill Turned Back,” June 29.

³ The spatial model is absolute garbage on this vote. It’s awesome.

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#3. House Consideration of HR 9096 (September 18, 1961)

On September 18, 1961, Rep. Emanuel Celler (D-NY) moved to suspend the rules and pass HR 9096.⁴ Celler described that the purpose of the bill was “to enable the member clubs of a professional sports league to pool their separate rights in the sponsored telecasting of their games and to permit the league to sell the resulting package of pooled rights to a television network or other purchaser without thereby violating the antitrust laws (*Congressional Record*, 87th Congress, September 18, 1961, 20059).”⁵

Prior to the motion being adopted by voice vote, Rep. H.R. Gross (R-IA) inquired as to whether “this bill would, by any chance, help the Senators or the Redskins win a few games (*Congressional Record*, 87th Congress, September 18, 1961, 20062)?” No direct answer was provided.

#3. Senate Consideration of HR 9096 (September 21, 1961)

The Senate adopted HR 9096 by voice vote after a fairly abbreviated debate.

⁴ A motion to suspend the rules and pass a bill is a procedure generally used to quickly pass legislation in the House. It is in order on certain days (currently Monday and Tuesday of each week and the last six days of a session), typically reserved for non-controversial legislation and allows the Speaker to entertain motions made by members seeking to bypass the traditional calendar. Debate is limited to forty minutes, evenly divided between supporters and opponents. Floor amendments are prohibited. Currently, and for much of the House’s history, passage of the motion is dependent on the support of two-thirds of members voting majority.

⁵ For a bill that passed via suspension, there’s actually a pretty decent discussion on it. Build this up and pull in some newspaper articles.

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Member Spotlight

Choose one of the following for your member spotlight:

#1. Rep. Thomas P. “Tip” O’Neill (D-MA); Rep. Francis Walter (D-PA); Rep. Clarence Brown (R-OH); Rep. Kenneth Keating (R-NY); Rep. Sidney Yates (D-IL)

#2. Sen. Lyndon B. Johnson (D-TX); Sen. Estes Kefauver (D-TN); Sen. Alexander Wiley (R-WI); Sen. Philip Hart (D-MI); Sen. John Carroll (D-CO); Sen. Joseph O’Mahoney (D-WY)

#3. Rep. Emanuel Celler (D-NY); Rep. H.R. Gross (R-IA); Sen. Everett Dirksen (R-IL); Sen. Roman Hruska (R-NE); Sen. Mike Mansfield (D-MT); Rep. William Randall (D-MO)

Aftermath Questions

1. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing?

Additionally, how relevant is this law currently? This issue? Are there additional issues related to it that reformers have been pushing to change? Address recent attempts to end MLB’s antitrust exemption under the act (see e.g. [Pickman 2021](#)). Are such attempts rare? [CRS \(2012\)](#) is a good source for context on this question.

2. How has this law evolved over time? Has it been featured in any major Supreme Court cases? Specifically, the NCAA had barred universities from negotiating separate broadcast packages under the law. The University of Oklahoma and the University of Georgia sued, leading to a Supreme Court ruling on it in [National Collegiate Athletic Association v. Board of Regents of the University of Oklahoma \(1984\)](#). What was the decision? Why was it significant? [Barbash \(1984\)](#) discusses the ruling for the Washington Post.

Was the law significantly altered by subsequent legislation? What was [the Curt Flood Act of 1998](#)? What did it do? On this point, see [CQ \(1998\)](#).

3. How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others? Celler argued the owners were “out for all the dough they can get.”⁶ Were his concerns merited? Did this law benefit the owners?

⁶ See *The Washington Post*, 1958. “House Votes Antitrust Exemptions for Sports,” June 25.; *The Wall Street Journal*, 1958. “House Votes to Free Professional Sports from Antitrust Laws,” June 25.

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Suggested Sources

Scholarly Articles

Buhite, Russell D. "The Continental League and Its Western Carolina League Affiliate: Branch Rickey's Second Finest Hour." *The North Carolina Historical Review* 81.4 (2004): 426-460.

Ostertag, Thomas J. "Baseball's Antitrust Exemption: Its History and Continuing Importance." *Va. Sports & Ent. LJ* 4 (2004): 54.

Goodman, Brett T. "The Sports Broadcasting Act: as Anachronistic as the Dumont Network." *Seton Hall J. Sport L.* 5 (1995): 469.

Kaiser, Lacie L. "Revisiting the Sports Broadcasting Act of 1961: A call for equitable antitrust immunity from section one of the Sherman Act for all professional sport leagues." *DePaul L. Rev.* 54 (2004): 1237.

Gratton, Chris, and Harry Arne Solberg. *The economics of sports broadcasting*. Routledge, 2007.

Anderson, David L. "The Sports Broadcasting Act: Calling It What It Is-Special Interest Legislation." *Hastings Comm. & Ent. LJ* 17 (1994): 945.

Butler, Robert, and Patrick Massey. "Has competition in the market for subscription sports broadcasting benefited consumers? The case of the English Premier League." *Journal of Sports Economics* 20.4 (2019): 603-624.

Newspaper Pieces

- <https://www.theatlantic.com/entertainment/archive/2011/07/how-curt-flood-changed-baseball-and-killed-his-career-in-the-process/241783/>
- <https://www.sbnation.com/2018/12/15/18141446/saturday-nfl-games-december>
- <https://www.commlawblog.com/2013/12/articles/broadcast/sports-blackout-rules-on-the-ropes/>
- <https://www.nytimes.com/1992/12/13/sports/sports-of-the-times-baseball-s-antitrust-exemption.html>
- <https://www.beyondtheboxscore.com/2008/12/3/678134/the-history-of-baseball-s>
- <https://nymag.com/intelligencer/2021/04/republican-senators-major-league-baseball-antitrust-exemption-vote-suppression-georgia.html>
- <https://www.washingtonpost.com/politics/2021/04/16/major-league-baseballs-antitrust-exemption-becomes-next-target-culture-wars/>
- <https://www.washingtonpost.com/outlook/2021/04/01/ncaa-pay-athletes-supreme-court/>
- <https://www.si.com/mlb/2019/11/19/minor-league-baseball-lawsuit>
- <https://www.si.com/mlb/2021/04/14/mlb-antitrust-exemption-legislation-introduced-congress>