In view of the above, the Commission must maintain its network-cable cross-ownership prohibition.

The Commission may not on its own repeal the local cable-broadcast station ownership prohibition. To the extent that the Commission may make a recommendation to Congress, INTV urges a cautious approach, which presumes the soundness of the prohibition. The consequences of local cross-ownership are similar to those arising from network ownership of local cable systems. Nonetheless, one vital distinction does exist, which suggests that further inquiry may be in order. Ownership of a local cable system by a broadcast television station in the market would not necessarily compound the size and power of the two dominant participants in the video marketplace. On the other hand, some struggling stations may be helped by cable ownership. Therefore, INTV urges a very cautious approach to any modification of the broadcast station-cable system cross ownership prohibition.

C. THE MULTIPLE OWNERSHIP RULES SHOULD BE RELAXED.

The multiple ownership rules should be relaxed to permit broadcast licensees to take greater advantage of economies of scale.

1. THE DUOPOLY RULE SHOULD BE RELAXED OR ELIMINATED.

The duopoly rule for television should be relaxed. Moreover, combination of studio facilities, cross-utilization of skilled employees, and the ability to sell advertising on more than one channel will enhance the financial and competitive strength of the broadcast stations. This also will enhance their ability to provide locally-responsive, issue-oriented programming to their communities. Such second channels, which otherwise might be dark, could be used to provide more specialized program formats (*e.g.*, news, foreign-language, ethnic) which would be infeasible on a stand-alone basis.

As important as the values of competition and diversity are, continued insistence on *maximum* diversity and competition has become a self-defeating policy.[37] The public interest analysis in the current video marketplace demands a closer, more comprehensive inquiry. As the Commission has recognized, diversity of broadcast ownership is a means to an end, not an end in itself:

> [T]he ultimate objectives of the duopoly rule, like our other ownership rules, have been to promote economic competition and diversity of programming and viewpoints in order to further the public interest....Although one of the structural purposes underlying our multiple

[37]The Commission once had posited that "A proper objective is the maximum diversity of ownership that technology permits in each area." *Id.*, 22 FCC 2d at 311 .

> ownership rules is to encourage diversity in the ownership of broadcast stations, we have encouraged diversity of ownership as a means of promoting diversity of program sources and viewpoints, not as an end in itself.[38]

Furthermore, pursuit of any goal reaches a point of diminishing returns which may be outweighed at that point by other public interest considerations. The Commission has acknowledged this in temporizing its pursuit of broadcast ownership diversity with other public interest concerns. In proposing changes to its duopoly rules in 1987, the Commission observed wisely that:

> Both the "duopoly" and "one to a market" rules, like our multiple ownership rules, reflect a balancing of factors that, to some extent, inevitably compete. On the one hand, they are intended to promote the dual goals of diversity of program service viewpoint and economic competition by encouraging diversity in the ownership of broadcast facilities. On the other hand, in developing these rules, we have recognized that diversification of ownership is not an absolute factor and that it must be balanced against the demonstrable benefits resulting from the group ownership of stations, such as promoting diversity of program service and aiding in the development of new broadcast services.[footnote omitted][39]

This approach is realistic in the current video marketplace.

First, in a video marketplace in which a local cable operator can maintain exclusive control over a multiple channel video programming monopoly, prohibiting broadcast licensees from controlling more than a single channel is ludicrous. Moreover, where no regulations exist to assure stations' access to their viewers, where cable systems exploit their subsidized use of local and distant television stations signals to compete with local television stations, and where the Commission staff has concluded that broadcast television

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[38]*BMOR*, 4 FCC Rcd at 1723-24.

is in a long-term, irreversible decline, the Commission hardly can continue its blind pursuit of *maximum* diversity and competition at the expense of all else! [40]

Factors similar to those justifying relaxation of the radio duopoly rule also compel relaxation of the television duopoly rule. First, the dilution of diversity would be considerably less perceptible than it might have been when the rules were adopted years ago. Since then, broadcast television has grown as have other video media, including cable television, home satellite dishes and video cassette recorders (VCR').[41] Thus, the margin for the "nth" source of programming has moved to a higher level.

Second, the broadcast television industry has plateaued after years of growth and begun to weaken perceptibly especially at the fringes. The Commission's longstanding conclusions that stand-alone operation was no impediment to success requires reexamination and, moreover, is demonstrably invalid with respect to some types of stations. The OPP Paper coldly predicts the demise of numerous stations including marginal independent stations in large and small markets.[42] The era of growth has ended.

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[39]*Broadcast Multiple Ownership Rule (NPRM)*, 2 FCC Rcd 1138 (1987) [hereinafter cited as *MONPRM*].

[40]OPP Paper at 159. Again, INTV would prefer to see the Commission confront the truly destructive aspects of regulation which have promoted the purported demise of broadcast television In any event, the consequences of such misdirected regulation still must be taken into account in considering the modification of other regulations.

[41]*See BMOR, supra,* 4 FCC Rcd at 1726; *MONPRM, supra*, 2 FCC Rcd at 1140; *see also* OPP Paper, *passim.*

[42]OPP Paper at 157-160.

New station start-ups have fallen off year-by-year since 1987. Many channels remain unused. [43] Profits are down Station values have declined.

Third, the costs of letting broadcast television founder and the benefits of restoring its economic vitality will increase dramatically with the coming implementation of advanced television ("ATV"). One easily can envision an increase the number of channels in each market to a level equal to twice the number of operating stations today.[44] If these new channels fall vacant and remain so, an opportunity for substantial new service to all the public will have been squandered.

Relaxation of the duopoly rule would enhance the opportunity for fuller development of broadcast television service both today and into the future.[45] Economies of scale in operation from co-located stations could result in substantial cost savings. One independent operator has estimated that the cash expenses of a second co-owned, co-located station would be 25% less than a stand-alone station. More efficient operation via taking advantage of economies of scale would enable many stations which would be marginal or unprofitable to operate with a profit. Such co-owned, co-located stations, therefore, might be built or remain in operation if they could be the second station of an existing licensee in the market. This takes on far more significance today when broadcast

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[43]This did not have to happen. Had the Commission not been more concerned that 60% of the viewers get 36 channels than that 100% gain service from a fully-developed broadcast spectrum, consideration of remedial deregulation of broadcast television might not have been necessary.

[44]*See Notice of Proposed Rule Making*, MM Docket No. 87-268, FCC 91-337 (released November 8, 1991) at ¶¶37-41.

[45]Contrary to OPP's assertions, non-cable subscribers may place a high value on an additional channel of programming. *Critique* at 4. Furthermore, the availability of over-the-air service is less extensive than OPP asserts. *Id.* at 7, 12.

stations are more likely to be struggling than it did even five or ten years ago when a television license was referred to jokingly as a license to print money. It will take on far more significance in the future when stations will face investing millions to implement ATV and later when simulcast channels are surrendered. [46]

In view of the above, INTV urges consideration of the following options:

- Repeal the duopoly rule for television.
- Prohibit overlap of only the Grade A contours of co-owned television stations.
- Prohibit only VHF-VHF overlaps.
- Limit the number of overlapping stations to two.
- Permit co-ownership of co-located UHF stations.

These alternatives will focus the debate on specific proposals to relax or eliminate the rules. Therefore, INTV urges the Commission to commence a rulemaking proceeding looking toward repeal or significant relaxation of the television duopoly rule.

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[46] As the Commission observed when it relaxed its radio duopoly rule:

> Other service benefits resulting from cost savings of common ownership could be the possible activation of unused FM radio allocations, providing new broadcast service to the public, and improvement in the technical facilities of existing stations, such as increasing station's power.

BMOR, *supra*, 4 FCC Rcd at 1732, n.47.

2. THE "12-12-12" RULE SHOULD BE RELAXED SO AS TO EXCLUDE UHF TELEVISION STATIONS

The limitations on the number of broadcast television stations which may be owned or controlled by a single licensee should be liberalized. In particular, the current limits no longer should apply to UHF television stations. UHF television remains the weaker portion of the broadcast television industry. This is especially true among independent stations. A comparison of the average "P&L" for VHF versus UHF stations confirms their contrasting financial performance. The average UHF independent draws 68% less revenue and shows a loss rather than a profit when compared its VHF counterpart.[47] Growth of UHF has come to a near halt since 1987. The OPP Paper finds UHF independents especially vulnerable in today's video marketplace, predicting a sorting out in the industry as cable continues to develop.[48] Therefore, UHF needs a stimulus from greater investment by established and knowledgeable licensees.[49]

Again, economies of scale also may provide some economic benefit to co-owned stations. This in turn may enable stations otherwise unable to operate to remain in operation

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[47]*NAB/BCFM Television Financial Report (1991)*

[48]This is a great irony in light of OPP's conclusion that cable development promoted growth of UHF by giving it parity with VHF in terms of coverage and channel position.

[49]A recent example of this in another industry is Delta's 45% investment in the scaled-down Pan Am. In other words, lifting the rule might encourage not only outright acquisition, but also investment from other licensees in UHF entities struggling to survive and prosper despite an overabundant debt load.

or begin operation. UHF licensees also will confront the costs of ATV implementation more readily if they may take advantage of economies of scale.

On the other hand, the risk of diminishing diversity is minimal. Indeed, the net effect may be positive when viewed on a market-by-market basis. If more UHF stations are viable, more will be operating, contributing to local market diversity. The entire viewing public, not just cable subscribers will benefit from more television service.[50]

Therefore, INTV urges the Commission to repeal the limit on the number of UHF television stations in which a single licensee may have an interest.

3. ONE-TO-A-MARKET RULE SHOULD BE REPEALED.

The one-to-a-market rule should be repealed. Again, natural economies of scale will benefit broadcast licensees and their competitive vigor. The Commission has concluded already that: "[T]here are efficiencies and related cost savings inherent in owning radio and television stations in the same market."[51]

Furthermore, the Commission has recognized that the public benefits from more and better programming from commonly-owned radio and television stations:

> We remain convinced by the record in this proceeding that economic incentives induce the owners of two or more stations in the same market to offer varied programming of the type that our rules were designed to

[50]The Commission could reduce the risk by retaining the national market share limitation or by gradually repealing the rule (*i.e.*, imposing an increasing cap on the number of UHF stations which a single licensee may own).

> encourage. It is in the best interest of broadcasters to provide high quality programming because this leads to greater audience shares and higher returns.[52]

Similarly, more stations may be viable in both services. In radio, AM is in a perilous situation; UHF television struggles in a cable world. Both services could benefit from common ownership with a financially secure, well-managed licensee of a VHF or FM station. Indeed, in some small communities, services considered too risky might be placed on the air, thereby increasing program diversity

Additionally, the administrative burden of case-by-case handling of waiver cases also would be eliminated if the rule were eliminated.

The OPP Paper interjects a new factor into the analysis -- the now significant detrimental effect of cable television on local television stations. What also is now highly ironic is the fact that a single cable operator can control over 30 channels of television service to a majority of viewers in a community, while a competing television station cannot even own a radio station in the same community, absent a waiver of the Commission's rules. This is true in small as well as large markets. In fact in smaller communities, cable is more likely to consist of a single monopoly system. On the other hand, the efficiencies and benefits of radio-television cross-ownership are no less significant in small rather than large markets.

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[51]*Second Report and Order*, MM Docket No. 87-7, 4 FCC Rcd 1741, 1747 (1989) [hereinafter cited as *SRO*].

[52]*Id.*, 4 FCC Rcd at 1749.

Whereas the Commission has been cautious in this area, common ownership of radio and television stations in the same market hardly is a recent phenomenon. Many such combinations have operated via grandfathered status for years in markets large and small. New combinations have come into existence under the Commission's recent liberalization of its rule and waiver standard. In short, the Commission does have a base of experience from which to derive evidence and draw conclusions.

The Commission even in the absence of a direct prohibition still would lose no ability to supervise the creation of radio-television combinations. First, every acquisition of a station is subject to approval by the Commission. All such applications are subject to objection or petition to deny. Second, the Commission still will entertain complaints of abusive practices. Experience suggests, however, that such complaints will be few.

Therefore, the Commission ought commence a proceeding looking toward complete elimination of the one-to-a-market rule.

D. THE NETWORK RULES SHOULD BE RETAINED.

1. THE PRIME TIME ACCESS RULE MUST BE RETAINED.

The prime time access rule must be retained in its current form. The rule has functioned as anticipated and promoted first-run program production. Furthermore, the financial interest and syndication rules, which are adjuncts to the prime time access rule, recently were relaxed. Until such time as the effects of the relaxation of the financial interest and syndication rules can be assessed, no action should be taken with respect to the prime time access rule.

2. NETWORK-AFFILIATE RELATIONSHIP RULES SHOULD BE RETAINED UNLESS A SUBSTANTIAL SHOWING MADE THAT THEY NO LONGER ARE NECESSARY OR BENEFICIAL.

No change should be made in any of the Commission's network rules unless a substantial showing is made that the harm the rule was designed to prevent no longer could occur and/or the benefits the rule was to promote no longer contribute to the supply or diversity of locally-oriented program service. Indeed, the law requires as much. Attached hereto as Exhibit 4 is the memorandum of law prepared previously by INTV and submitted in MM Docket No. 90-162, the Commission's now completed proceeding in which the network syndication and financial interest rules were relaxed, but at least in a cautious manner. INTV, thus, reiterates that the networks bear the burden of going forward and of proving the need for any relaxation in the rules governing their relationship with their affiliates.

E. THE COMMISSION SHOULD CURB PRACTICES WHICH RESTRICT THE AVAILABILITY OF POPULAR PROGRAMMING TO LOCAL STATIONS AND THEIR VIEWERS.

1. "GENERIC" EXCLUSIVITY

"Generic exclusivity" restricts the output or availability of programming to stations and viewers. The present concern arises from cable licensing agreements with sports teams and leagues which effectively withdraw from the market all the leagues games which would compete in any local market with cable exhibition of some of the league's games. For example, no Major League Baseball (MLB) game may be exhibited on a local broadcast station on Wednesday nights when the ESPN cable network is showing a MLB game.[53] Thus, on a given Wednesday night, although ESPN may be showing the Seattle-Cleveland game, the Yankee-Red Sox game may not be shown on broadcast television even in Boston or New York. Consequently, stations and viewers throughout the country are deprived of the opportunity to show or see their local team or any other game for that matter. This restriction on MLB game availability, therefore, prevents stations from showing games and viewers from seeing games they have shown and seen in the past and continue to wish to show and see.

This sort of restriction on output in a market is contrary to the public interest and destructive to competition. Thus, the Supreme Court upheld a district court's finding that NCAA restrictions on sale of television rights by member schools "curtail[ed] output and blunt[ed] the ability of member institutions to to respond to consumer preferences."[54] Under the NCAA restrictions, member colleges could sell television rights only pursuant to a highly restrictive plan. Member schools,therefore, could not sell football telecast rights when consumers wanted games broadcast and broadcasters were willing or even anxious to televise them. Such restrictions on output resemble the current ESPN generic exclusivity provision and hardly can be ignored in any review of the video marketplace. At a time

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[53]*See* Testimony of James B. Hedlund, President, INTV, before the House Subcommittee on Telecommunications and Finance (June 27, 1991) at 33-35.

[54]*NCAA v. Board of Regents of University of Oklahoma*, 468 U.S. 85, 120 (1984); *See also Walt Disney Productions v. American Broadcasting-Paramount Theatres, Inc.*, 180 F. Supp. 113 (S.D.N.Y. 1960); *Chicago Professional Sports Limited partnership and WGN v. National Basketball Association*, 754 F. Supp. 1336 (N.D. Ill. 1991), *appeal pending*. (Reduction in number of games league would sell to superstation held an unreasonable restraint of trade).

when sports events are subject to siphoning from broadcast to cable television, output restrictions have an especially deleterious effect on broadcasters and their viewers.

2. PROGRAM MIGRATION

The Commission must revisit the problem of program migration from free to pay media. Otherwise, the country faces the prospect of a media caste system in which those who can afford to pay will see attractive programming and those who cannot will be relegated to the "leftovers." Twenty years ago the Commission acknowledged this likely eventuality and adopted rules to prevent wholesale migration of sports and other highly popular program types from free television to pay television (both broadcast and cable). The courts, however, dismissed the Commission's concerns as premature and speculative and invalidated the rules. Since then, migration of sports programming in particular has commenced and continued at both the local and national levels. The basic economics of pay television always have held the threat that popular program genres available free to all viewers via advertiser-supported broadcasting would be "siphoned" to pay media. Now, the ability of cable networks to generate revenue from subscriber fees as well as advertising has permitted them to bid up rights fees significantly. Broadcasters, on the other hand, remain strapped to a single revenue stream the size of which depends completely on the size of the audience. Consequently, in an ever-increasing number of instances, cable sports networks have gobbled up telecast rights to the point that they now are beginning to encroach on games and events routinely available on free television. All telecast rights to New York Yankee games now reside with a regional cable sports network. Only a handful of baseball games are shown on network television. A Chicago station had to secure an injunction in federal court to prevent a reduction in the number of basketball games the team was willing to sell.[55] College football conferences have granted nearly exclusive telecast rights to cable networks, freezing out local broadcast stations which wish to show only the local college's games. The NFL is preparing PPV "tests" for some NFL games. League protestations that play-offs, the Super Bowl, and the World Series will remain available to all on free TV ring increasingly hollow. In short, the Commission's predictions of 20 years ago were sound. They are coming true, and they no longer can be dismissed or ignored.

The OPP Paper grasps this basic reality of television economics:

> [D]irect payment media receive more revenues than advertiser supported broadcasters from audiences of the same size. Thus they are able to present programming that would not be financially viable for broadcasters, and they may be able to purchase more expensive, and presumably more attractive, programming.
>
> * * * *
>
> In some cases, the combination of viewer payment and large audiences has allowed cable networks to pay higher prices than the broadcast networks could profitably pay. Sports programming on ESPN, TNT, and other networks appears to be an example.[56]

Thus, the problem everyone knew would exist, even though the courts thought it did not in 1975, does exist today. Again, no inquiry into the status of the video marketplace would be complete without consideration of sports siphoning or migration from broadcast television, where all may view, to cable, where only 60% can (pay for and) view.

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[55] *Chicago Professional Sports Limited partnership and WGN v. National Basketball Association, supra.*

[56] OPP Paper at 135, 154; *but see Critique* at 18.

3. NETWORK PROGRAM EXCLUSIVITY.

The Commission must consider immediately the ramifications of permitting networks to gain more extensive temporal exclusivity in the licensing of programming for network exhibition. Presently, the Consent Decree limits network exclusivity to a maximum of four years. Those provisions, however, will expire within the next few years, and the networks will be able to bargain for and obtain a longer period of exclusive use. Consequently, highly popular series programming which now enters the market four years after its first broadcast may be withheld from the syndication market for more extended periods. The ability to acquire popular, recent-vintage off-network series programming is the *sine qua non* of independent station success. If networks may require by contract that producers hold programs out of syndication for longer periods, independents will be denied their bread and butter programming, as will their viewers. Such acknowledged hits as *Cheers* and *The Cosby Show*, for example, might not be in syndication today, but for the Consent Decree's limits on network exclusivity. Whereas reasonable exclusivity is essential to proper functioning of the marketplace, the Commission has adopted rules limiting the scope of exclusivity to assure availability of programming to stations.[57]

The Commission also has adopted a rule which prevents warehousing of prime time entertainment programming in which a network has syndication rights.[58] The Commission found:

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[57] *E.g.*, §73.658 (m).

[58] This rule applies to the network and to an independent syndicator which distributes a program in which the network has held or acquired syndication rights. *FISR* at ¶ 114.

> [T]hat the networks would have the economic incentive and the ability as syndicators to delay strategically (by temporarily "warehousing") the off-network domestic syndication of programs they control. Such warehousing would harm independent stations, in particular, by making it more difficult, if not impossible, for them to purchase the popular off-network programming essential to their competitive viability.[59]

Consequently, the Commission concluded that it "must continue to protect local broadcasters against potential network warehousing."[60]

To protect stations fully, however, the Commission must apply the rules to all network prime time entertainment programming, regardless of the nature of the network's interest. Thus, even if the network had no more than the right to exhibit the program on the network, the "anti-warehousing" limitation should apply. Warehousing easily could be accomplished by means other than the holding or acquisition of syndication rights to the program. A simple contractual provision granting the network extensive temporal exclusivity would suffice. Although the network would have no ownership or financial interest of any kind in the program, it still would have prevented the program from being syndicated in the timely fashion contemplated by the Commission's rules.

Presently, of course, the Consent Decree places a definite limit on temporal exclusivity in network program exhibition agreements. Those provisions expire in 1995.[61]

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[59] *FISR* at ¶ 101.

[60] *FISR* at ¶ 105.

[61] *See FISR* at ¶ 43, n.52. The exclusivity limitation in the NBC decree will expire in 1992. *United States v. National Broadcasting Co.*, 449 F.Supp. 1127 (C.D. Calif. 1978).

However, the Commission hardly may assume that the Consent Decrees will remain intact and in force even through 1995. The parties can be expected to seek modification or termination of the decrees in the wake of the Commission's relaxation of the financial interest and syndication rules. Otherwise, the relaxation of the rules would be a hollow gesture. The decrees contain provisions which mirror the old financial interest and syndication rules, as well as other provisions (like the exclusivity limitation). Unless the decrees are modified, the Commission's action will have no effect. Each of the parties to the decrees, the three networks and the Department of Justice, has favored relaxation, if not complete elimination of the rules. Consequently, one can predict with a high degree of confidence that they will seek modification or termination of the consent decrees at the appropriate moment in the very near future.

Therefore, the Commission must act promptly to consider the effects of the demise of the Consent Decree limitations on network exclusivity. In particular, the Commission must preserve the effectiveness of its anti-warehousing provisions by extending their application to all network prime-time entertainment programming.

F. STATIONS SHOULD BE PRESUMED "SIGNIFICANTLY VIEWED" THROUGHOUT THEIR ADI'S.

The Commission should establish a rebuttable presumption that a television station is significantly viewed in every county assigned to the station's ADI. This may permit stations to be carried by cable systems throughout their ADI's with no payment of distant signal copyright royalties. By establishing a presumption, but not amending the rule, the Commission still will be finding stations "local" under the 1972 carriage rules, which continue to govern the local versus distant determination under the cable compulsory license. This will remove a roadblock to carriage of many UHF independent stations within their market areas.

Many stations now face the added difficulty of demonstrating they are significantly viewed because cable penetration has increased so markedly. With fewer and fewer non-cable households, demonstrating off-air viewing has become impossible or exceedingly expensive in many areas. Current surveys do not include enough non-cable households to produce a reliable estimate of off-air viewing. Consequently, stations must pay for inclusion of additional households in surveys or have custom surveys undertaken. This often is prohibitively expensive.

A presumption of significant viewing would alleviate this cost factor and do little more than recognize the market areas of stations as established through industry practice. INTV recognizes this to be an imperfect solution.[62] Others have been proposed.[63]In any case, the Commission should take up this issue in this proceeding and adopt a practical approach to a growing problem.

G. CABLE SYSTEM SHOULD BE REQUIRED TO CARRY BROADCAST SIGNALS IN THEIR ENTIRETY.

The Commission should amend its rules to require that cable systems carry broadcast signals in their entirety. Currently, cable systems may "cherry-pick"

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[62]*See Critique* at 7.

[63]*E.g.*, Petition for Rulemaking, RM-7613, filed December 19, 1990, by Malrite Communications Group, Inc.

programming from various stations and form composite channels. In the case of local signals, this entails no prohibitive increase in copyright royalties for the system. No royalties are paid for local station carriage. Such behavior by cable systems would add insult to the injury of the compulsory license, as well as mock the memory of the "must carry" rules. The compulsory license accorded cable systems free use of local signals because the systems were required to carry them and no alteration or deletion of program was permitted. It never was intended, however, to sanction a program-by-program, pick and choose approach to signal carriage. Yet, this is permissible today in the absence of local carriage requirements. Such misuse of the compulsory license is deleterious to broadcast stations and their viewers. This is especially a concern in light of the difficulty of estimating viewing when programs from various stations may be carried on a single channel. Therefore, the Commission should require that if a cable system, even in the absence of "must carry" determines to carry a local signal that it do so in its entirety.

IV. CONCLUSION

As the OPP Paper confirms, the problem faced by television broadcasting is the effect of cable's multichannel "competition" with broadcast stations. INTV submits, therefore, that solutions initially focus on the true problem -- a grossly distorted marketplace in which broadcast stations have no assurance of access to viewers who subscribe to cable and in which cable pays nothing for some of its most valuable product. Unleashing the networks also offers no answers or solutions, but only peril for diversity and competition. Other regulatory adjustments also may be called for, especially with respect to the Commission's multiple ownership rules. INTV also encourages those efforts. Again, however, they must not distract the Commission from the root of the problem, cable television's massive regulatory advantages

Ironically, in 1972, the Commission stated that, "Cable television can and should help in achieving the diversification sought by our allocations policies."[64] Today, cable poses a great threat to diversity and diversification, operating as a local monopoly and gatekeeper throughout the nation.

Therefore, INTV urges the Commission to act expeditiously on INTV's recommendations.

Respectfully submitted,

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[64] *Cable Television Report and Order*, 36 FCC 2d 141 (1972) at ¶89.