

television unless the Commission knows all of the other competitive threats to the local free television service extant at the same time. Unless the Commission is assured, either by an explicit prohibition on program origination through Congressional legislation, or by undisputed economic data demonstrating that such CATV-Pay-TV operations would never get off the ground, that there is no such threat to local television service, it cannot reasonably conclude that the additional authorization of nationwide off-the-air Pay-TV would not seriously harm the free television service.

C. CATV As An Adjunct to Free TV

The unsettled nature of the regulatory scheme and, indeed, the unsettled nature of the CATV industry, itself, dictates at this point that no definitive action can be taken with respect to the current proposal. This is so even if no hybrid CATV-Pay-TV operation is assumed. For insofar as CATV may import distant TV signals into a market, the impact upon the free television service may be precisely the same as the threat of program origination by CATV systems. Importation of New York independent broadcast stations into Philadelphia by a CATV system will have the similar effect upon the local free television service in Philadelphia as an off-the-air Pay-TV service. In both cases, the public would be receiving programming from a source not otherwise available to it, and the impact upon the local television stations in that respect is the same. Thus, if the CATV service does not develop into a Pay-TV form of operation, it may still represent a substantial threat to the local television service if signals not otherwise available locally are permitted to be shown in the particular market. While the Commission has established procedures for investigation of CATV operations in the larger markets, it is not entirely clear that the importation of distant signals will be rigorously prohibited by the Commission. In fact, the very decision of the Commission in the *Second Report and Order* to