



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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DA 09-2135

September 28, 2009

## MEDIA BUREAU ACTION

### MEDIA BUREAU SEEKS COMMENT ON EVOLUTION BROADBAND'S LOW-COST, LIMITED CAPABILITY SET-TOP BOX CERTIFICATION

#### CSR-8204-Z

**Comment Date: October 8, 2009**

On June 1, 2009, the Commission released an order granting a request by Evolution Broadband, LLC (“Evolution”) for a waiver of Section 76.1204(a)(1) of the Commission’s rules,<sup>1</sup> which prohibits cable operators from placing into service navigation devices that perform both conditional access and other functions.<sup>2</sup> The Commission concluded that the Evolution Broadband DMS-1002 and DMS-1002-CA set-top boxes were eligible for waiver of the integration ban pursuant to the “low-cost, limited-capability” standard set forth in the Commission’s *2005 Deferral Order*.<sup>3</sup> In the *Evolution Order*, the Commission set forth a streamlined process for other applicants to seek waivers for similarly low-cost, limited-capability devices:

If applicants certify that the capabilities of their navigation devices are low-cost, limited capability devices that are no more advanced than the [Evolution Broadband DMS-1002 and DMS-1002-CA set-top boxes] and include the full specifications of any devices for which waiver is sought, the Media Bureau will release a public notice seeking comment on those certifications for a period of ten calendar days, after which the Bureau will expeditiously grant a waiver similar to the one granted herein, deny such a waiver, or take other appropriate action.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 76.1204(a)(1). The Commission commonly refers to this rule as the “integration ban.”

<sup>2</sup> *Evolution Broadband, LLC’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, 24 FCC Rcd 7890 (2009) (“*Evolution Order*”).

<sup>3</sup> *See Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, 20 FCC Rcd 6794, 6813, ¶ 37 (2005) (“*2005 Deferral Order*”).

<sup>4</sup> *Evolution Order*, 24 FCC Rcd at 7897, ¶ 15.

Evolution has filed another request for waiver pursuant to this streamlined process, certifying that its Evolution Broadband DMS-2002-CA, DMS-1004-CA and DMS-2002u set-top boxes are low-cost, limited-capability devices that are no more advanced than the Evolution Broadband DMS-1002 and DMS-1002-CA.<sup>5</sup> The Media Bureau seeks comment on this certification.<sup>6</sup>

This proceeding will be treated as “permit but disclose” for purposes of the Commission’s *ex parte* rules. See generally 47 C.F.R. §§ 1.1200-1.1216. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission’s rules applicable to non-restricted proceedings.<sup>7</sup>

Comments and oppositions are due October 8, 2009. All filings should refer to the case identifier, CSR-8204-Z. Pleadings sent via e-mail to the Commission will be considered informal and will not be part of the official record. Comments and oppositions filed must indicate that they have been served on Petitioner. All comments and oppositions must be served on counsel for Petitioner:

Jeremy M. Kissel  
Cinnamon Mueller  
307 N. Michigan Avenue, Suite 1020  
Chicago, Illinois 60601

Parties must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554.

One copy of each pleading must be sent to Brendan Murray, Media Bureau, Room 4-A737, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554 or [Brendan.Murray@fcc.gov](mailto:Brendan.Murray@fcc.gov).

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<sup>5</sup> See *Evolution Broadband’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, CSR-8204-Z attaching Declaration of Chris Egan, Executive Vice President, Evolution Broadband, LLC (filed August 31, 2009).

<sup>6</sup> Commenters should limit their comments to the issue of whether the Evolution Broadband DMS-2002-CA, DMS-1004-CA and DMS-2002u are more advanced than the Evolution Broadband DMS-1002 and DMS-1002-CA. The Bureau does not seek comment on the policy implications of issues resolved in the *Evolution Order*.

<sup>7</sup> 47 C.F.R. § 1.1206.

Copies of the Waiver Request and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

445 12<sup>th</sup> Street, S.W., CY-Level  
Washington, D.C. 20554  
(202) 418-0270

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For further information, contact Brendan Murray of the Media Bureau, (202) 418-1573. Press inquiries should be directed to David Fiske, (202) 418-0513. TTY: (202) 418-7172 or (888) 835-5322.

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