



August 27, 2009

## MEMORANDUM TO CLIENTS

### **Re: FCC Grants Motorola, Cisco, Thompson, and Pace Set-Top Box Waivers Under *Evolution Broadband* Standard**

In June 2009, Motorola, Cisco Systems, Thompson, and Pace Americas requested waiver of the set-top box integration ban for certain one-way, limited capability devices pursuant to streamlined procedures adopted by the Commission in the *Evolution Broadband* decision (see our “Memorandum to Clients” dated June 18, 2009). Under those procedures, if applicants can certify that 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, the Media Bureau initiates a 10-day public comment period regarding those certifications, after which it takes expeditious action with respect to the requests.

Motorola, Cisco, Thompson, and Pace all filed waiver requests pursuant to this streamlined process, certifying that the following set-top box models meet the established criteria:

- **Motorola:** DTA-100 and DTA-100u
- **Cisco:** Digital Transport Adapter 30, Digital Transport Adapter 50, and Digital Transport Adapter 70
- **Thompson:** DCI104 and DCI105
- **Pace:** DC50X and DC50Xu

This week, the FCC granted a three-year waiver to the four companies for all of the boxes specified in their waiver requests. While several parties, including the Consumer Electronics Association, filed comments in opposition to the waiver requests, the FCC refused to entertain many of the arguments in opposition after determining that the comments were inappropriate policy-based attacks on the *Evolution Broadband* decision itself.

While Public Knowledge expressed concern in comments that the boxes could be upgraded through software updates to allow for advanced capabilities, the Commission was ultimately satisfied with the companies’ certification that the boxes were no more advanced than those approved in the *Evolution Broadband* decision. The FCC did clarify, however, that the waiver would not cover boxes that underwent hardware modifications to make the boxes anything more advanced than the one-way, non-HD, non-DVR devices that were specified in the waiver requests.

We would be pleased to respond to any questions regarding this matter.

**FLEISCHMAN AND HARDING LLP**

206391\_1