

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
ImOn Communications, LLC)
)
Request for Waiver of Section 76.1204(a)(1) of)
the Commission’s Rules)

MEMORANDUM OPINION AND ORDER

Adopted: June 19, 2008

Released: June 20, 2008

By the Chief, Media Bureau:

I. INTRODUCTION

1. ImOn Communications (“ImOn”) has requested a limited waiver of the ban on integrated set-top boxes set forth in Section 76.1204(a)(1) of the Commission’s rules.¹ We grant ImOn a limited waiver for 2,000 set-top boxes to allow the company to replace the integrated set-top boxes that were in service and damaged in the Cedar Rapids, Iowa area flooding.

2. ImOn reports that it is a cable overbuilder in the Cedar Rapids, Iowa area.² Cedar Rapids recently has faced unprecedented flooding, and this flooding destroyed three hubs in ImOn’s cable system and affected many subscriber homes served by these operational hubs, including destroying up to 2,000 set-top boxes with integrated security that ImOn had deployed to customers.³ ImOn’s set-top box vendor has informed ImOn that there is a backlog on orders for set-top boxes with separated security that comply with Section 76.1204(a)(1) of the Commission’s rules; ImOn has been able to locate used set-top boxes with integrated security that do not comply with Section 76.1204(a)(1) of the Commission’s rules.⁴ ImOn seeks waiver of Section 76.1204(a)(1) of the Commission’s rules for permission to purchase and deploy these non-compliant boxes.⁵

3. In light of ImOn’s unique circumstances stemming from the extraordinary flood damage that the Cedar Rapids area has endured, and the importance of restoring cable service to its customers as quickly as possible so that they may be able to obtain important local news and information relative to the

¹ 47 C.F.R. § 76.1204(a)(1). The separation of the security element from the basic navigation device required by this rule is referred to as the “integration ban.”

² Letter from Jean L. Kiddoo, Counsel, ImOn Communications, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (June 19, 2008).

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.* at 2-3.

recovery efforts in their community, we conclude that the grant of a waiver to ImOn under Sections 1.3 and 76.7 of the Commission's rules is justified.⁶ Given the emergency nature of this request and the enormous capital costs that ImOn faces in light of the damage to its systems, and specifically, the significant physical damage to ImOn's network facilities and damage to its customers' set top boxes,⁷ we also find good cause to grant waiver of the application fee required under Section 1.1104 of the Commission's rules.⁸

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the request for waiver filed by ImOn Communications, LLC of Section 76.1204(a)(1) of the Commission's rules, 47 C.F.R. § 76.1204(a)(1), **IS GRANTED** to allow ImOn Communications, LLC to deploy up to 2,000 integrated set-top boxes.

5. **IT IS FURTHER ORDERED** that ImOn Communications, LLC **SHALL FILE** with the Media Bureau a sworn declaration within 10 days of the release of this order in which ImOn Communications, LLC commits to deploy set-top boxes with integrated security only to those subscribers whose set-top boxes were destroyed as a result of flooding in the Cedar Rapids, Iowa area.

6. **IT IS FURTHER ORDERED** that, pursuant to Section 8(d)(2) of the Communications Act of 1934, as amended, 47 U.S.C. § 158(d)(2), and Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, waiver of Section 1.1104 of the Commission's rules, 47 C.F.R. § 1.1104, **IS GRANTED** to ImOn Communications, LLC for the purposes of ImOn Communications LLC's emergency request for waiver.

7. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules, 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai
Chief, Media Bureau

⁶ See *Guam Cablevision, LLC Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 11747 (2007) (granting waiver of the integration ban due to extraordinary typhoon damage in Guam); see also *Media Bureau Announces Communications Restoration Processes for MVPDs and CARS in Response to Hurricane Katrina*, 20 FCC Rcd 14473 (2005) (waiving certain technical requirements for cable operators whose systems were damaged by Hurricane Katrina).

⁷ Letter from Jean L. Kiddoo, Counsel, ImOn Communications, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission at 2 (June 19, 2008).

⁸ 47 C.F.R. § 1.1104.