



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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MEDIA BUREAU ACTION

MEDIA BUREAU SEEKS COMMENT ON BAJA BROADBAND'S INTEGRATION BAN WAIVER REQUEST

CSR-7111-Z

Comment Date: August 20, 2009

Reply Comment Date: August 31, 2009

Baja Broadband Operating Company, LLC (“Baja Broadband” or “Petitioner”) has filed a request pursuant to Sections 1.3 and 76.7 of the Commission’s rules,¹ for limited waiver of the prohibition set forth in Section 76.1204(a)(1) of the Commission’s rules² on offering navigation devices that perform both conditional access and other functions.³ Baja Broadband seeks a waiver that will allow Baja Broadband to place in service refurbished integrated navigation devices, including high-definition (“HD”) and digital video recorder (“DVR”) devices.⁴ Baja Broadband relies on a series of Media Bureau Orders granting waiver of the integration ban to companies in dire financial straits.⁵ Baja Broadband states that the costs related to compliance with the integration ban have limited its ability to offer HD and DVR devices and digital services in certain areas.⁶ Baja Broadband asserts that refurbished devices are available for “half or less than the cost of new CableCARD devices,”⁷ and specifically cites another

¹ 47 C.F.R. §§ 1.3 & 76.7.

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

³ See Baja Broadband’s First Amended Request for Waiver of 47 C.F.R. § 76.1204(a)(1) (filed June 24, 2009) (“Waiver Request”).

⁴ Waiver Request at 1.

⁵ *Id.* at 2 (citing *Charter Communications, Inc. Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, 22 FCC Rcd 8557, 8564-5, ¶ 18 (2007); *Great Plains Cable Television, Inc. et al Requests for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, 22 FCC Rcd 13414 (2007)).

⁶ Waiver Request at 3-4.

⁷ *Id.* at 5.

operator's estimate that new, compliant set-top boxes could cost \$500 while similar, refurbished, non-compliant boxes may cost less than \$200.⁸ Baja Broadband goes on to say that this cost savings will allow them to "resume active offering of HD and DVR services in all of its markets" and commits to "pass these savings on to its customers."⁹ Baja Broadband further argues that a waiver in this specific instance would not conflict with Bureau precedent because Baja Broadband has already deployed more than 7000 compliant devices.¹⁰ Finally, Baja Broadband asserts that such a waiver is necessary to afford regulatory parity between Baja Broadband and its satellite-based competitors, DIRECTV and Dish Network.¹¹ We seek comment on Baja Broadband's request.

This proceeding will be treated as "permit but disclose" for purposes of the Commission's *ex parte* rules.¹² 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.¹³

Comments and oppositions are due August 20, 2009. All filings should refer to the case identifier, CSR-7111-Z. Pleadings sent only 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 Petitioner's counsel:

Paul B. Hudson
Davis Wright Tremaine LLP
1919 Pennsylvania Ave. N.W., Suite 200
Washington, DC 20006

Petitioner's reply is due August 31, 2009.

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 12th Street, SW, Washington, D.C. 20554.

⁸ *Id.*

⁹ Waiver Request at 5-6.

¹⁰ *Id.* at 5-6 (citing *Bresnan Communications, LLC, et al., Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 11725, 11745, ¶ 56 (2007)).

¹¹ *Id.* at 11-12.

¹² See 47 C.F.R. §§ 1.1200-1.1216.

¹³ 47 C.F.R. § 1.1206.

One copy of each pleading must be sent to Brendan Murray, Media Bureau, Room 4-A737, 445 12th Street, S.W., Washington, D.C. 20554 or Brendan.Murray@fcc.gov.

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 12th Street, S.W., CY-Level
Washington, D.C. 20554
(202) 418-0270

Alternate formats of this Public Notice (computer diskette, large print, audio recording, or Braille) are available to persons with disabilities by contacting the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-7365 (TTY).

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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