

December 7, 2009

MEMORANDUM TO CLIENTS

Re: FCC Seeks Comment on Developing a Retail Market for “Network Agnostic” Set-Top Boxes in Connection With the National Broadband Plan Proceeding

Comments Due: December 21, 2009

Observing the convergence of TV and delivery of video via Internet Protocol (“IP”) and that innovation in set-top boxes could support its goal to promote adoption and utilization of broadband, the FCC is considering its role in formulating a solution for development of a retail market for navigation devices that will work across all delivery platforms, including multichannel video programming distributor (“MVPD”) platforms. To better understand these issues, the Commission seeks comment on the following:

What technological and market-based limitations keep video devices from accessing all forms of content? For instance, numerous devices permit access to Internet video but no device allows access to all types of video content and few permit access to MVPD content. What prevents consumer electronics device manufacturers from developing a true “plug-and-play” device that is network agnostic? What limitations keep certain video devices from accessing video services to which a consumer has subscribed? As a related matter, what limitations prevent innovation in the video device market similar to what has been achieved in the market for interface devices (e.g., cable modems) that can perform network-specific functions but also connect to numerous other competitive consumer devices such as computers, printers, game consoles, digital media devices, wireless routers, and other equipment?

Would a retail market for network agnostic devices spur broadband use and adoption and promote the Commission’s goal of achieving a competitive market for navigation devices? With respect to compatibility between cable systems and consumer electronics devices, some commenters have argued that an all-MVPD solution would take years to develop while others have argued that it is the only way to achieve the goal of a competitive market for navigation devices. Which of these statements is true? How could the FCC develop a standard that would achieve a retail market for devices that can attach to all MVPD networks and access Internet-based video sources? What are the pros and cons of these solutions, particularly in terms of facilitating broadband deployment?

Can home networking standards used to by interface devices (e.g., cable modems) to convert signals to Ethernet be adapted to allow connection and interaction with home video network devices such as TVs, DVRs and Home Theater PCs? If so, how would these standards be implemented and what home networking standards should be considered in developing this model? What are the strengths and weaknesses of each home networking standard and would any of these standards work with existing equipment? For instance, many home networking interface devices in consumers' homes will accept firmware upgrades. Could the Commission adopt a network interface standard that allows those devices to connect to an MVPD network?

What obstacles stand in the way of video convergence? Given its limited success in developing a retail market for navigation devices and the costly and complex certification process for plug-and-play devices, how can the FCC encourage innovation while avoiding similar challenges? Is there a solution that would allow MVPDs to continue to innovate without making navigation devices obsolete when MVPDs adopt incompatible delivery methods? Would a network interface solution address concerns with respect to the cost and complexity of device certification and approval?

Comments are due **December 21, 2009**. We would be pleased to respond to any questions regarding these matters.

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