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CLIENT UPDATE
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FCC Approves Use of Evolution Low Cost Set-top Boxes

On June 1, 2009, the FCC approved a waiver filed by Cinnamon Mueller on behalf of Evolution Broadband, LLC which allows cable operators to deploy Evolutions' low-cost DMS-1002 and DMS-1002-CA set-top boxes. The FCC notes that Evolution plans to offer the devices to cable operators at a price between \$45-\$55.

Under FCC rules, absent a waiver, any new set-top box deployed after July 1, 2007 must have separable security - meaning that the conditional access functionality must be separate from any other functionality.

The Evolution waiver marks the first time the FCC has granted a general set-top box waiver that applies to all cable operators. Previous waivers were operator specific.

In granting the general waiver the FCC determined that Evolution had met the requirements established in a previous Commission Order which provided that waivers would be considered for "low-cost, limited capability boxes." The Evolution boxes are one-way devices that do not have interactive program guides, video-on-demand, pay-per-view or other interactive capabilities nor do they have high definition, video recording, broadband Internet or dual tuner capabilities.

The FCC reminded cable operators that they still have a requirement to make CableCard's available to subscribers who desire them. Also, other set-top boxes must meet the FCC rules regarding separable security requirements, absent a company specific waiver. The waiver is limited to three years from the release date of the Order, or until June 1, 2012. During this time any cable operator may purchase and deploy the Evolution DMS -1002 or DMS 1002-CA set-top box.

If you have questions about the Evolution waiver or company specific waivers, please call Jeremy Kissel at (312) 372-3930.

Please visit our website at <http://www.cinnamonmueller.com> to learn more about our lawyers and practice. You can reach Cinnamon Mueller at 312-372-3930. *This update is provided by the law firm of Cinnamon Mueller. The document is intended for informational purposes only as a service to clients of Cinnamon Mueller and to the members of the American Cable Association. It is not intended to provide specific legal advice or to substitute obtaining appropriate legal counsel. We encourage you to consult with counsel to address special compliance issues and for assistance in negotiating or handling any such matter referred to in the update.*