

Exhibit 1

Partial Record from CSR-7201-Z for Incorporation into Record

LUIS G. FORTUÑO
PUERTO RICO

WASHINGTON OFFICE:
126 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2615 FAX: (202) 225-2154

SAN JUAN OFFICE:
P.O. Box 9023958
SAN JUAN, PR 00902-3958
(787) 723-6333 FAX: (787) 729-7738



Congress of the United States
House of Representatives
Washington, DC

COMMITTEES:
FOREIGN AFFAIRS
EDUCATION AND LABOR
NATURAL RESOURCES
RANKING MEMBER OF
SUBCOMMITTEE ON INSULAR AFFAIRS
CHAIRMAN, CONGRESSIONAL
HISPANIC CONFERENCE
REPUBLICAN POLICY COMMITTEE
CO-CHAIRMAN, CONGRESSIONAL
FRIENDS OF SPAIN CAUCUS

December 11, 2007

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
Room 8 B-201
445 12th Street S.W.
Washington, D.C. 20554

Re: Application for Review, *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CS Docket 97-80, CSR-7201-Z

Dear Chairman Martin:

I am writing to bring to your attention my grave concern that the digital transition will be imperiled in significant portions of Puerto Rico unless the Commission quickly takes action to grant a requested waiver from its integration ban to Choice Cable T.V., the smallest of the three cable operators in Puerto Rico.

The facts presented in the Choice request for waiver are unlike any of the waiver requests that the Commission has previously denied. In addition, I am not aware of a single person from Puerto Rico that opposes Choice's request for waiver, and no party has filed any opposition comments to its Application for Review.

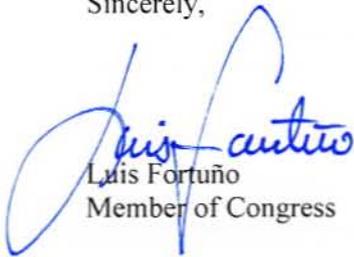
Choice has reported to the Commission that CableCARD high-definition (HD) and digital video recorder (DVR) devices would cost the company approximately twice as much as the refurbished integrated devices that it could obtain on the secondary market that serves Latin America. Given that it was already difficult for most of my constituents to afford HD devices even before the integration ban, it is understandable that Choice has determined that it is not commercially viable for it to purchase any of the new CableCARD HD or DVR devices.

On the mainland, some consumers could respond to this situation by purchasing CableCARD HD and DVR devices at retail. However, I am not aware of any availability of such devices at retail in Choice's service area, and the few devices available in the larger San Juan market are far too expensive for the budgets of most of Choice's customers. As a result, the Commission's integration ban would prevent tens of thousands of Puerto Rican consumers from obtaining cable HD or DVR functionality from any source, virtually shutting down the local digital transition

precisely when it needs as much support as possible from the federal government. Choice has now stopped adding HD channels to its service offering when we should be encouraging it to add HD programming, and it expects to run out of HD devices altogether before the end of the 2007 holiday shopping season. I trust that you will agree that it would be unconscionable and contrary to Congressional intent for the Commission to shut down Choice's HDTV transition and leave any consumers unable to purchase HD cable services during this critical next fourteen months before analog broadcasting is terminated in February 2009.

As I have previously noted in my letter to you of March 15, 2007 in support of a waiver for Liberty Cablevision of Puerto Rico, Ltd., the integration ban appears to have been designed primarily with the markets in the continental United States in mind. The communications market and the economy in Puerto Rico are very different from the continental United States, and deserve individual consideration with respect to a significant rule such as the integration ban. I very much appreciate that the Commission subsequently granted Liberty's requested waiver, and I now urge the Commission to grant Choice the entirety of Choice's requested relief.

Sincerely,



Luis Fortuño
Member of Congress

LUIS G. FORTUÑO
PUERTO RICO



WASHINGTON OFFICE:
126 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2615 FAX: (202) 225-2154

SAN JUAN OFFICE:
P.O. Box 9023958
SAN JUAN, PR 00902-3958
(787) 723-6333 FAX: (787) 729-7738

Congress of the United States
House of Representatives
Washington, DC

COMMITTEES:
FOREIGN AFFAIRS
EDUCATION AND LABOR
NATURAL RESOURCES
RANKING MEMBER OF
SUBCOMMITTEE ON INSULAR AFFAIRS
CHAIRMAN, CONGRESSIONAL
HISPANIC CONFERENCE
REPUBLICAN POLICY COMMITTEE
CO-CHAIRMAN, CONGRESSIONAL
FRIENDS OF SPAIN CAUCUS

May 30, 2008

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
Room 8 B-201
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. §
76.1204(a)(1), CS Docket 97-80, CSR-7201-Z*

Dear Chairman Martin:

I am writing to remind you of my earlier request for a waiver for Choice Cable T.V. This issue presents a concern for my constituents, and I sincerely hope that you will respond in the affirmative and grant Choice Cable the desired temporary waiver.

As I mentioned in my previous letter, the current integration ban seems to have been designed with the markets of the continental United States in mind, not those of Puerto Rico. Furthermore, the fact that, to my knowledge, there have been no objections to the waiver further justifies the petition. Therefore, I urge you to provide special consideration to our particular situation found on the Island. With your help, Choice Cable will be able to overcome this hurdle and continue to provide quality entertainment to my constituents. I greatly appreciate your prior accommodations, and hope that we can continue with such amicable practices. Again, I would like to stress that this integration ban presents a formidable challenge for my constituents; a transition that would be greatly facilitated by your waiver.

I truly appreciate any help you can offer. As always, please feel free to contact my office with any concerns.

Sincerely,



Luis Fortuño
Member of Congress



April 24, 2008

The Honorable Kevin J. Martin, Chairman
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: PUERTO RICO CABLE ACQUISITION CORP. REQUEST FOR WAIVER OF 47 C.F.R. § 76.1204(A)(1), CSR-7201-Z

Dear Chairman Martin:

The Cámara de Comercio del Sur de Puerto Rico (Southern Puerto Rico Chamber of Commerce) wishes to convey with the utmost of urgency that the consumers of southern Puerto Rico are in need of the Commission's immediate action to grant to our local cable operator, Choice Cable T.V., the waiver it has requested from the "integration ban."

The Cámara de Comercio is dedicated to the promotion of the best economic interests of the businesses and people of Southern Puerto Rico. It has recently come to our attention that, because of the integration ban, Choice Cable has run out of high-definition and video recorder set-top boxes and is unable to provide such boxes to new customers except when an existing customer returns a working box. The shut-down of Choice Cable's HD service is especially disturbing to us because the satellite providers do not offer their full package of HD programming in Puerto Rico. The unavailability of HD from Choice Cable will stunt demand for HDTV purchases from our retailer members just as those sales had been beginning to surge in Puerto Rico. Tens of thousands of Puerto Ricans have bought HDTVs within the past year as the price of these televisions has dropped significantly and the first Circuit City in our region opened in Ponce a few months ago. We would hope that the FCC would seek to encourage DTV sales in Puerto Rico, rather than discourage it, especially in light of the DTV transition scheduled for February 2009.

The economy of Puerto Rico, especially in the areas outside of San Juan, is considerably different than that of the mainland United States. It would be unreasonable for the FCC to simply apply the same rules to Puerto Rico, on the same schedule, without considering whether those rules are in the best interests of the people of the Commonwealth. We are not aware of any evidence that the integration ban will help consumers or retailers in Southern Puerto Rico, among other reasons because the high-end "CableCARD" devices that we have been told the rule is designed to support are not available in our area. We also are not aware of any evidence that the integration ban will lead to the availability of such devices here any time soon. The ban has already been in effect for nearly a year with no apparent consequence here except to take away from consumers the only option they previously had to obtain HD service.

Denial of Choice Cable's waiver would therefore only hurt the consumers and retailers that the integration ban was designed to help. We therefore urge the Commission to grant Choice Cable its waiver, and to do so *as soon as possible*.

Sincerely,


Mercedes Rodríguez Rodríguez
President 2007-08

xc Hon. Luis G. Fortuño, Congressman

JUNTA DE DIRECTORES 2007-08

Sra. Mercedes Rodríguez Rodríguez
Presidenta

Dra. Elena M. Colón Parrilla
Primera Vicepresidenta
Presidenta Electa

Sr. José A. Reyes Feliciano
Segundo Vicepresidente

Sr. Fernando Luis Cruz Domínguez
Pasado Presidente

Sr. Luñel Torres Acosta
Secretario

Sra. Minerva Luna Diou
Sub-Secretaria

CPA Mario R. Silvagnoli Guzmán
Tesorero

Sr. Victor I. Pérez Valdézquez
Sub-Tesorero

DIRECTORES

Sr. Melvin Arroyo Torres

Dra. Vilma Colón Acosta

Ing. Viviam Y. Puig González

Sr. David C. Southgate Backhouse

Sr. Edwin Stevenson Figueroa

Sr. David Talavera Albarrán

Sr. Miguel Tejera Moreta

Director Ejecutivo

Sr. Héctor E. López Palermo

ASOCIACIONES AFILIADAS

Autoridad del Puerto Las Américas
Rafael Cordero Santiago

Asociación Productos de Puerto Rico

Asociación de Industriales de PR
Región Sur

DISUR: Desarrollo Integral del Sur

Porta Caribe: Oficina Regional
Compañía de Turismo de PR

REGION DE SERVICIO

Adjuntas - Albonito

Arroyo - Coamo

Guánica - Guayama

Guayanilla - Jayuya

Juana Díaz - Patillas

Peñuelas - Ponce

Salinas - Santa Isabel

Villalba - Yauco

www.camarasur.org

camarasur@prtc.net

ESTADO LIBRE ASOCIADO DE PUERTO RICO
JUNTA REGLAMENTADORA DE TELECOMUNICACIONES DE PUERTO RICO



OFICINA DEL PRESIDENTE

June 4th, 2008

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: **In the Matter of Puerto Rico Cable Acquisition Corp. Request for Waiver of 47
C.F.R. § 76.1204(a)(1)**, CS Docket No. 97-80, CSR-7201-Z

Dear Chairman Martin:

The Puerto Rico Telecommunications Regulatory Board (“Board”) urges the Commission to grant the requested waiver from the integration ban sought by Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable TV (“Choice”), the smallest of the three cable operators in Puerto Rico. The integration ban delivers no benefit to consumers in southwestern Puerto Rico, but instead has resulted in the shutdown of Choice’s HD service to new customers.

The Commission’s prior orders have not addressed the unique costs that the integration ban would impose on consumers in Puerto Rico.¹ For the Board, the protection of these consumers is its full time job. The Legislature of Puerto Rico delegated on the Board the authority to regulate the telecommunications industry and the provision of cable television franchising in Puerto Rico, provided that all its actions, regulations and determinations be guided by the Federal Communications Act, the public interest, and especially, by the protection of consumer rights.² Accordingly, the Board would welcome efforts by the Commission to promote retail availability of navigation devices in Puerto Rico. But whatever benefit the integration ban may now be having on the mainland, it does not seem to be the right answer in southwestern Puerto Rico at this time.

The retail CableCARD devices that the integration ban is designed to support are not sold in Choice’s service area, and TiVo does not support its service or ship its products there. The reason that consumer electronics manufacturers have not shipped CableCARD HDTVs to southwestern Puerto Rico is that they are out of the price range of nearly all of the region’s consumers. While the price of HDTVs in Puerto Rico has fallen below \$250, the price of

¹ Indeed, the Commission’s own regulations reveal that the Puerto Rican market was not considered to be a relevant part of the Commission’s analysis in its prior orders. Section 76.1204 (a)(2) of the Commission’s rules exempt from the integration ban (in Puerto Rico and otherwise) any MVPD that supports the active use by subscribers of navigation devices that “operate throughout the *continental United States....*” (Emphasis added) 47 C.F.R. § 76.1204 (a)(2).

² See Act No. 213 of September 12, 1996, as amended, 27 L.P.R.A. § 267f (f).

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission

CableCARD HDTVs in the mainland generally remains \$1500-6000+. These ultra-expensive TVs are not likely to succeed commercially in southwestern Puerto Rico, where 90% of households have an annual income of less than the median household in the mainland United States. Because there is comparably little demand for retail CableCARD devices in Puerto Rico, application of the integration ban is a solution for a problem that does not clearly exist in Puerto Rico. In any case, it seems a solution far worse than any problem caused by lack of retail availability, because the ban has effectively shut down HD service in rural Puerto Rico.

The Commission is responsible of evaluating the Puerto Rican market independently.³ In fact, the Commission has frequently granted waivers and other forms of individualized treatment to telephone companies and cable operators in Puerto Rico and other insular areas in light of exceptional circumstances, such as “weak economic conditions” and the low penetration of MVPD services.⁴ The same consideration should be afforded in this case.

The DTV transition is now less than nine months away. Nowhere in America is the transition more daunting than in Puerto Rico, where more than half of all households rely on broadcast television. While cable and satellite operators cannot on their own lead Puerto Rico through this transition, the Board and the government and people of Puerto Rico are eager for them to help as much as possible. This is why Luis Fortuño, the Member of Congress from Puerto Rico, wrote to you last year that it would be “unconscionable and contrary to Congressional intent for the Commission to shut down Choice’s HDTV transition and leave any consumers unable to purchase HD services during this critical period before analog broadcasting is terminated in February 2009.” But this is now what has happened. Choice ran out of HD set-top boxes two months ago and is now effectively unable to offer HD service to additional customers, and has stopped adding HD channels. Choice has assured us that it would resume HD service to new customers and double its HD programming if the requested waiver is granted.

The Board understands that some proponents of the integration ban contend that the integration ban will help to create both a supply of and demand for competitive, low-cost navigation devices that could benefit lower-income consumers. But that experiment can and

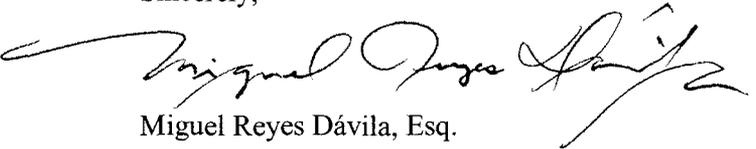
³ **WAIT Radio v. FCC**, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (“The Commission is charged with administration in the ‘public interest.’ That an agency may discharge its responsibilities by promulgating rules of general application which, in the overall perspective, establish the ‘public interest’ for a broad range of situations, does not relieve it of an obligation to seek out the ‘public interest’ in particular, individualized cases.”).

⁴ See, e.g., **Applications for Transfer of Control WAPA-TV, San Juan, PR**, ID No. 52073, Letter Order, DA 07-500 (rel. Feb. 2, 2007) (granting exception from 47 C.F.R. § 73.3555 (b) for television stations in Puerto Rico, noting “weak economic conditions” (“The gross national income per capita is only 30% of the U.S.’ average and the average wage earned by island residents is only 54% of that earned by mainland residents. Outside of San Juan, the income differential is even more dramatic”) and low MVPD penetration (“cable subscription on Puerto Rico is limited to approximately 25% of TV households and only 20% of TV households subscribe to DBS. This is substantially below the subscription rate of over 80% for multi-channel video providers in the United States.”).

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission

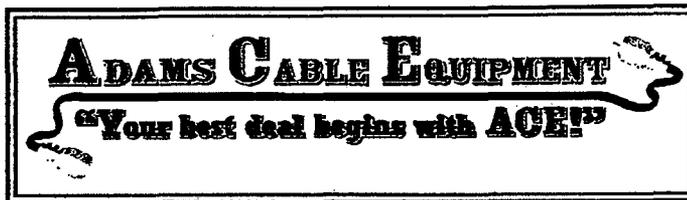
should first be played out in the mainland United States, where consumers are better able to afford the costs of the ban. If application of the integration ban in the mainland eventually proves to have stimulated the development and adoption of retail navigation devices, and if consumer electronics companies begin to sell more CableCARD-ready devices that are suitable for and available in the Puerto Rican market, and if Choice fails to provide adequate support for such devices, the Commission could revisit whether to apply the rule to Choice. In the meantime, grant of the requested waiver would not undermine the potential success of the integration ban in the mainland any more so than will its non-application in other parts of the Caribbean. By contrast, denial or failure to promptly grant the requested waiver would unnecessarily deny HD service to thousands of Puerto Ricans without providing any local benefit in return. As the guardian of the interests of Puerto Rican consumers, the Board therefore urges the Commission to grant Choice's requested waiver.

Sincerely,



Miguel Reyes Dávila, Esq.

- c: Vicente Aguirre Iturrino, Esq. - Commissioner – (Board)
- Nixyvette Santini Hernandez, PE - Commissioner – (Board)



1704 E. 123rd Terrace, Olathe, Kansas 66061
913-390-0060 913-390-0069 fax
www.adamscableequipment.com

March 31, 2008

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. §
76.1204(a)(1), CSR-7201-Z*

Dear Ms. Dortch:

I am the Chief Operating Officer and co-owner of Adams Cable Equipment (ACE), and am writing to the Commission to support the waiver from the integration ban requested by Choice Cable T.V. of Puerto Rico. Based upon my twelve years of experience in providing second-hand refurbished set-top boxes to cable operators in Latin America, including Puerto Rico, I would like to offer the Commission my observations on the Latin American set-top box market that help to demonstrate why a waiver is so important to consumers in rural Puerto Rico.

For ten years, ACE has specialized in refurbishing and redistributing used cable industry equipment. ACE purchases used set-top boxes from large U.S. operators, refurbishes them,¹ and sells them typically to smaller operators, including to operators located in less affluent countries in Latin America. Several other companies also serve this market in a similar fashion. Because refurbished boxes are older models that have previously been used, we purchase them at a discount and are able to offer the boxes for much less than the price of new models available from the manufacturers. For example, a refurbished, integrated HD or DVR device typically would cost roughly half of the price of a new CableCARD HD or DVR device, and sometimes significantly less than half.²

¹ The refurbishment process varies depending on the condition of the device received, but generally may include cleaning, replacement of batteries, restoration or replacement of the exterior, and replacement of the lens or resonator.

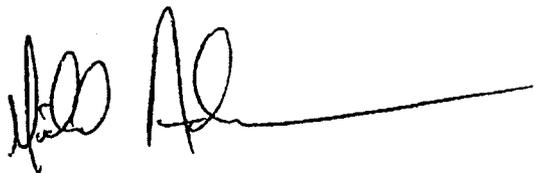
² The exact prices of refurbished devices would vary based upon supply and demand, model type, the condition of the equipment, the quantity of the order, and other factors. I am generally familiar with Motorola's and Scientific Atlanta's pricing for new CableCARD set-top boxes based upon my experience and contacts in the industry.

The significant cost savings from using refurbished devices is therefore a critical gateway that makes possible the delivery of new cable technologies – first digital cable, and now HD and DVR services – to countries with lower consumer disposable income than in the mainland United States. We therefore have sold refurbished devices to cable operators in many countries in Central and South America and the Caribbean, such as Mexico, Guatemala, the Dominican Republic, Ecuador and Peru, as well as in Puerto Rico, which is part of the United States but whose cable market, in my experience, shares more in common with the other countries we serve in Latin America.

The integration ban has brought an abrupt end to the availability of refurbished set-top boxes for Puerto Rican cable operators that have depended upon them. Because CableCARD set-top box models are all brand new and only entered the primary set-top market in the spring of 2007, there is not yet any material supply of used CableCARD boxes for companies such as ACE to refurbish. We do not expect to be able to offer refurbished CableCARD devices on a regular basis for several years. I therefore concur with Choice's representation in this proceeding that the integration ban would approximately double Choice's cost for HD and DVR set top boxes.³

The Commission should accordingly grant Choice's request for a temporary waiver from the integration ban so that it may continue to provide more affordable HD and DVR equipment and services to Puerto Rican consumers.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Adams", followed by a long horizontal line extending to the right.

Michael Adams
Chief Operating Officer
Adams Cable Equipment

³ We believe that the Bureau erred on June 29, 2007 by holding, for the first time, that refurbished set-top boxes are subject to the integration ban. The integration ban, by its plain terms, applies only to "new navigation devices." See CS Docket 97-80, Letter from Christy Adams, Adams Cable Equipment, to Hon. Kevin J. Martin, Chairman, FCC (Apr. 18, 2007).

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of
Puerto Rico Cable Acquisition Corp.
Request for Waiver of 47 C.F.R. 76.1204(a)(1)

CSR-7201-Z

APPLICATION FOR REVIEW

Jorge L. Bauermeister
Bauermeister Law Offices
VIG Tower
1225 Ponce de Leon Ave.
Suite 1505
Santurce, PR 00907

July 30, 2007

TABLE OF CONTENTS

	Page
Summary	1
I. Choice’s Request Clearly Presented Two Independent Requests for Relief, Supported by Two Independent Rationales.	3
II. The Bureau’s Order Entirely Failed to Address Choice’s Puerto Rico-Specific Evidence.	7

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of
Puerto Rico Cable Acquisition Corp.
Request for Waiver of 47 C.F.R. 76.1204(a)(1)

CSR-7201-Z

APPLICATION FOR REVIEW

Pursuant to Section 1.115 of the Commission’s Rules, 47 C.F.R. § 1.115, Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (hereinafter “Choice”) hereby seeks review of the Media Bureau’s decision regarding its request for a waiver of the integration ban.¹ On June 29, 2007, the Bureau issued a *Consolidated Order*² that granted Choice at least a partial waiver from the ban. However, certain statements within the order could be read to express an intent to deny a portion of the relief requested by Choice for high-definition (HD) and Digital Video Recorder (DVR) set-top boxes. For avoidance of doubt, Choice requests that the Commission grant Choice a waiver for HD and DVR devices for a temporary period of three years.

Summary

A waiver for HD and DVR devices is the *only* way that Choice’s customers will have access to these functionalities, because neither TiVo HD/DVRs nor any other HD/DVR is available at retail in Puerto Rico, and because Choice cannot order any new

¹ Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. 76.1204(a)(1), CSR-7201-Z, Request for Waiver (Apr. 24, 2007) (seeking waiver from the integration ban set forth in the second sentence of 47 C.F.R. § 76.1204(a)(1)) (“Request for Waiver”).

² *Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, CS Docket No. 97-80, Memorandum Opinion and Order, DA 07-2921 (rel. June 29, 2007) (“*Consolidated Order*”).

CableCARD HD or DVR devices, which are not economically viable in its low-income service area. Choice's Request for Waiver presented a detailed argument supported by substantial evidence that application of the integration ban in rural Puerto Rico over the near term would only be harmful to consumers because of unique market circumstances that distinguish rural Puerto Rico from the continental United States. The *Consolidated Order* entirely failed to analyze the evidence submitted by Choice in support of this independent basis for waiver. The Bureau's action is subject to Commission review and reversal for three reasons:

- The Bureau's complete failure to address Choice's unique arguments and evidence constitutes prejudicial procedural error;³
- A denial of Choice's request for relief for HD/DVR devices would necessarily depend on an erroneous finding as to an important or material fact: namely, that imposition of the ban on Choice's HD and DVR devices would convey a benefit to Choice's customers at this time;⁴ and
- The Commission has never analyzed or addressed whether the imposition of the integration ban in insular areas such as rural Puerto Rico concurrently with the continental United States, rather than later or not at all, will serve the public interest.⁵

The Bureau completely ignored the uncontested evidence that the integration ban would shut down Choice's offering of new HD and DVR devices altogether, and evidence that the integration ban makes no sense in a rural, insular market where the CE

³ 47 C.F.R. § 1.115(b)(2)(v).

⁴ 47 C.F.R. § 1.115(b)(2)(iv).

⁵ 47 C.F.R. § 1.115(b)(2)(ii).

industry does not sell CableCARD devices at retail because most consumers have too little money to buy them. It would be especially contrary to the public interest to effectively prohibit Choice customers from obtaining new HD devices during the final 18 months of the DTV transition. Instead, rural Puerto Ricans should not be subjected to the costs of the integration ban at least until there is a reasonable basis to conclude that they will be able to receive comparable offsetting benefits. Because that conclusion cannot be supported on the existing record, the requested waiver should be granted.

I. Choice’s Request Clearly Presented Two Independent Requests for Relief, Supported by Two Independent Rationales.

Choice’s Request for Waiver presented two requests for relief in two separate sections of its pleading. In the first section, Choice requested a permanent waiver for low-cost set-top boxes that it needed to sustain its transition to an all-digital network, which it recently had completed.⁶ The Bureau has determined that such a waiver would serve the public interest for any MVPD of any size, anywhere in the country that commits to transition to all-digital by the date of the DTV transition in February 2009. This portion of Choice’s request was unquestionably granted by the Bureau in the *Consolidated Order* and is not at issue in this Application for Review.

But Choice made an additional, separate argument for different relief that had nothing to do with its conversion to all-digital, but instead was premised entirely on the unique market conditions in rural Puerto Rico. In its second request for relief, Choice requested a *temporary* waiver for HD, DVR and other devices not covered by any grant of a permanent “all-digital” waiver for low-cost devices.⁷ The basis for this separate

⁶ Choice Request for Waiver at 2-5.

⁷ Choice Request for Waiver at 5-10.

request had nothing to do with enabling Choice to sustain its all-digital network. Instead, Choice argued that because of unique circumstances in rural Puerto Rico, application of the integration ban there during the limited period of its requested temporary waiver could not produce sufficient benefits for Puerto Rican consumers to offset the unquestionable cost that the Commission has recognized the ban will impose.⁸

In the first place, at least for some initial period of time, there would be only costs, and no benefits at all. The only retail HD/DVR CableCARD device now offered in the continental United States (the Series 3 TiVo) is not offered in Puerto Rico, because TiVo does not support its service in the Caribbean, including Puerto Rico.⁹ There are therefore not any retail HD/DVR devices available to Choice's customers against which Choice could possibly discriminate. In addition, the CableCARD DTVs offered in the continental United States are barely even available in rural Puerto Rico,¹⁰ and the few devices that do reach the island are too expensive (\$1700-\$7000)¹¹ for most rural Puerto Ricans to afford, given that the median household income in Choice's service area is \$12,960,¹² barely one-quarter of the national median of \$46,242.¹³

Choice further explained that given the lack of availability and enormous expense

⁸ *Id.*

⁹ See <http://www.tivo.com/whatistivo/faqs/mostpopular/index.html> (viewed July 27, 2007) ("The TiVo service is currently not supported in Mexico, or any U.S. territories including Puerto Rico.").

¹⁰ See Liberty Cablevision of Puerto Rico Request for Waiver at 9-10. ("An LCPR employee recently visited one of the larger electronics retailers in its service area to search for CableCARD-ready devices; he found only one CableCARD set out of twenty different digital models available. Even for the small number of consumers willing to buy a digital television without seeing it, Amazon.com and many other on-line retailers will not ship DTVs to Puerto Rico.")

¹¹ See CS Docket 97-80, Reply Comments of Charter, at Exhibit A (Sept. 28, 2006) (showing that the only CableCARD-ready devices from Best Buy and Circuit City in September 2006 were DTVs priced from \$1700-7000 and a Tivo Series 3 priced at \$800 plus more than \$150/year in TiVo subscription fees).

¹² See Request for Waiver at Exhibit 2 (showing US Census Bureau data for Mayaguez-San German-Cabo Rojo, PR Combined Statistical Area).

¹³ See U.S. Census, *Income, Earnings, and Poverty Data From the 2005 American Community Survey at 2*, available at <http://www.census.gov/prod/2006pubs/acs-02.pdf>.

of CableCARD devices in rural Puerto Rico, not a single customer has ever asked Choice to provide a CableCARD.¹⁴ There is simply no compelling consumer benefit in imposing the significant costs of the integration ban on Choice’s customers for the supposed benefit of high-end retail CableCARD products at least for so long as products are not in demand by Choice’s customers and when they are barely even available in Puerto Rico for Choice to support.

In addition, Choice’s Request explained that a prohibition on Choice from offering integrated HD/DVR devices would prevent its customers from obtaining such functionality altogether, from any source. Because of the significant price increase for CableCARD HD/DVRs and the low-income demographics of its service area, Choice has decided not to order any such devices at this time. Because such devices (such as Series 3 TiVos) are also not available at retail in Puerto Rico, *denial of Choice’s request for waiver for its HD and DVR devices would therefore mean that cable customers in Choice’s service area would not be able to obtain HD/DVR functionality at all.*¹⁵ This consequence would flatly contradict the goal of the 1996 Act to deliver advanced services to rural Puerto Rico;¹⁶ Congress’ goal of encouraging the transition to high-definition digital television;¹⁷ and Congress’ explicit direction to the Commission that in implementing Section 629 it “avoid actions which would have the effect of freezing or

¹⁴ Choice Request for Waiver at 8.

¹⁵ Choice Request for Waiver at 8.

¹⁶ See Telecommunications Act of 1996, Pub. L. No. 104-104, § 706, 110 Stat. 56, 153 (codified in notes under 47 U.S.C. § 157) (directing Commission “to encourage the deployment ...of advanced telecommunications capability to *all* Americans”) (emphasis added).

¹⁷ See, e.g., Title III of the Deficit Reduction Act of 2005, Pub. L. 109-171, 120 Stat. 4, 21 (Feb. 8, 2006) (requiring termination of analog broadcasting by February 18, 2009 and establishing subsidy program to encourage digital transition).

chilling the development of new technologies and services”¹⁸ and “regulations [that] prohibit any [MVPD] from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access” MVPD programming to consumers.¹⁹

Not a single person or party filed comments in opposition to Choice’s request for waiver,²⁰ and every comment from residents of Puerto Rico filed in the various waiver proceedings vigorously supported waivers.²¹ For example, the Honorable Luis Fortuño, the Member of Congress from Puerto Rico, wrote to Chairman Martin that the integration ban “appears to have been designed primarily with the markets in the continental United States in mind,” and “would have a disproportionately severe impact on Puerto Rican consumers given the demographics of the Commonwealth.”²² In addition, Choice noted that the Telecommunications Regulatory Board of Puerto Rico concluded that the

¹⁸ Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. 104-230, 104th Cong., 2d Sess. at 181 (1996) (“1996 Act Conference Report”).

¹⁹ 47 U.S.C. § 549(a) (second sentence) (“Such regulations shall not prohibit any [MVPD] from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, if the system operator’s charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.”) HD and DVR set-top boxes are clearly either “converter boxes” or “other equipment.” If they were not, they would not be navigation devices subject to the integration ban in the first place. Compare 47 C.F.R. §76.1204(a)(1), § 76.1200(c). In addition, the Commission has previously found that “the statutory language of Section 629 indicates that its reach is to be expansive and that Section 629 neither exempts nor limits any category of equipment used to access multichannel video programming or services offered over such systems from its coverage.” *Commercial Availability of Navigation Devices*, CS Docket No. 97-80, Report and Order, 13 FCC Rcd. 14775, ¶ 25 (rel. June 24, 1998).

²⁰ The Consumer Electronics Association (CEA) did not oppose Choice’s request, but asked the Commission to “bear in mind that too many or too liberal exceptions would serve to ratify the nullification of FCC regulations by larger MSOs and their vendors.” CEA Comments at 2. In its reply comments, Choice explained that “Choice serves only 72,000 customers, 1000 miles from the shore of continental United States. Given that U.S. cable operators deploy millions of new set-top boxes per year, the impact of any waiver for Choice would clearly be *de minimis*.” Choice Reply Comments at 2.

²¹ None of the form-letter comments filed by consumers supporting the ban in other waiver proceedings have come from residents of Puerto Rico.

²² See Request for Waiver at Exhibit 1 (Letter from Hon. Luis Fortuño, Member of Congress from Puerto Rico, to Hon. Kevin J. Martin, Chairman, Federal Communications Commission, March 15, 2007).

integration ban would not and could not benefit its constituents in rural Puerto Rico at this time:

It is far from clear that these extraordinary new costs [imposed by the integration ban] would be worth it for consumers in Puerto Rico, at least at this time. Far fewer consumers in Puerto Rico, especially in the [rural] areas outside of San Juan ..., can afford the expensive CableCARD devices now offered at retail by the consumer electronics industry. As a result, fewer of these devices are even available in Puerto Rico. There are no Circuit City or Best Buy stores anywhere in Puerto Rico, and TiVo does not support its service in Puerto Rico at this time. Because there is comparably little demand for retail CableCARD devices in Puerto Rico, [the integration ban] is a solution for a problem that does not clearly exist in Puerto Rico.²³

Choice therefore concluded in its reply comments that “Given such support for relief, and given the lack of any opposition, the Commission should grant the requested waiver promptly.”²⁴

II. The Bureau’s Order Entirely Failed to Address Choice’s Puerto Rico-Specific Evidence.

The *Consolidated Order* clearly acknowledged Choice’s unique argument in its summary of the waiver requests covered by the order,²⁵ but then entirely failed to address it. This fact would cause no prejudice to Choice if the ordering paragraph of the Bureau’s Order means what it says:

“IT IS ORDERED that, pursuant to Sections 1.3 and 76.7 of the Commission’s rules, 47 C.F.R. §§ 1.3, 76.7, a waiver of Section 76.1204(a)(1) of the Commission’s rules, 47 C.F.R. § 76.1204(a)(1) **IS**

²³ CSR-7124-Z, Comments of the Telecommunications Regulatory Board of Puerto Rico (Mar. 19, 2007).

²⁴ Choice Reply Comments at 1.

²⁵ See *Consolidated Order* at ¶¶ 44-46 (“Choice gives several reasons for the waiver it requests. ... Choice states that without a waiver, it will not be able to offer high definition and personal video recording services to its customers. ... Choice also argues for its waiver on the grounds that its service areas – small and rural communities in Puerto Rico – have weak economic conditions and low subscription to cable service. Choice also claims that the Commission, when it adopted Section 76.1204(a)(1), did not consider conditions in Puerto Rico, and that CableCARD-based devices are not generally available in retail and other outlets in Puerto Rico. ... The effect is especially strong, Motorola asserts, in the poor, rural areas of Puerto Rico served by Choice.”)

GRANTED to the petitioners listed in the Appendix as set forth in this Order.”²⁶

But one of the paragraphs of the order appears to be inconsistent with the unqualified waiver granted by its ordering paragraph. The Order states:

we find that a waiver for certain high-end devices for traditional cable operators would be inconsistent with the narrowly defined goal of the conditional waiver granted to BendBroadband. The purpose of the conditional waiver granted in the *BendBroadband Order* under Sections 1.3 and 76.7 of the Commission’s rules was not meant to provide BendBroadband with a means to avoid the potentially higher short-term costs associated with deployment of non-integrated boxes to be used for other, high-end functions like digital video recorder (“DVR”) and HD capabilities; rather, it was to permit BendBroadband to transition to an all-digital system. ... We are unconvinced that waiver for [HD and DVR] devices ... is necessary to further Petitioners’ migrations to all-digital systems. For the reasons discussed, we limit the relief granted to traditional cable operators in this order to devices that do not have HD or DVR capabilities.²⁷

This language is based upon the *OneSource Waiver Order*²⁸ that was adopted by the Bureau subsequent to Choice’s request. To the extent that the Bureau intended to so limit Choice’s waiver, it ignored the fact that Choice’s reply comments had clearly explained why this reasoning is inapplicable to Choice:

the *OneSource Waiver Order* is not the correct or applicable precedent for consideration of Choice’s request for a temporary waiver for high-definition (HD) and DVR devices. Like Choice, OneSource requested relief for an HD/DVR device (in its case, the Motorola DCT-3416). But OneSource did not offer any independent justification for such a waiver. Instead, OneSource simply suggested that the DCT-3416 is a “low-cost” device that OneSource needed for its digital transition, even though the Commission had previously found HD and DVR devices did not fall into the low-cost, limited-function category for which waivers might be needed for the digital transition. The Commission therefore rejected OneSource’s

²⁶ *Consolidated Order* at ¶ 63 (Choice has removed the phrase “, until December 31, 2009,” pursuant to the Erratum issued by the Bureau on July 6, 2007).

²⁷ *Consolidated Order* at ¶ 60.

²⁸ *Millennium Telcom, LLC d/b/a OneSource Communications Request for Waiver Section 76.1204(a)(1) of the Commission’s Rules, CSR-7129-Z, Memorandum Opinion and Order, DA 07-2009, ¶ 17 (rel. May 4, 2007) (“OneSource Waiver Order”).*

argument: “We are unconvinced that a waiver for the DCT-3416 is necessary to further OneSource’s migration to an all-digital system.” Unlike OneSource, Choice did not argue that a waiver for HD/DVR devices is necessary to its ability to sustain an all-digital system. Instead, Choice’s request for HD/DVR relief was predicated on an entirely different basis, in a separate section of its request for waiver: that a temporary waiver for all devices is warranted because the unique circumstances that distinguish rural Puerto Rico from the continental United States. The *OneSource Waiver Order* has no bearing on the analysis of that issue.²⁹

Choice also detailed additional distinctions between its case and OneSource’s.³⁰ Even though the integration ban has been applied to OneSource’s HD/DVRs, OneSource’s customers will still be able to obtain HD/DVRs from OneSource (at a higher price) or at retail (such as a TiVo Series 3). But Choice’s customers would not have either option, and would not be able to obtain new cable-ready HD/DVRs devices from any source. As explained above and in its waiver request, Choice has determined that it cannot purchase the new, more expensive CableCARD HD/DVRs at this time, and the Series 3 TiVo is not available in Puerto Rico.³¹ Thus, while the social cost of applying the integration ban to OneSource’s HD/DVRs is higher prices for consumers, the costs of applying the ban on Choice’s HD/DVRs are the elimination of a navigation device option for consumers and the suppression of new high-definition and advanced service options to rural Puerto Rican consumers – a result contrary to the core goals of Section 629 and the Act itself.

It would be especially confounding for the Commission to shut down Choice’s ability to offer any new HD converter boxes right as the nation is barreling toward the DTV conversion barely eighteen months from now. To effectively prohibit Choice from

²⁹ Choice Reply Comments at 2-3, citing *OneSource Waiver Order* at ¶ 17, the OneSource Request for Waiver at 7-8, and the Choice Request for Waiver at 5-10.

³⁰ Choice Reply Comments at 4.

³¹ Choice Request for Waiver at 8-10.

offering any new HD devices would contravene Congress' explicit direction to the Commission that, in implementing Section 629, it should "avoid actions which would have the effect of freezing or chilling the development of new technologies and services."³² Instead, in Section 629(c) of the Act, Congress required the Commission to grant waivers of its Section 629 regulations where "necessary to assist the development or introduction of [any] new or improved" MVPD service.³³

The *Consolidated Order* did not address at all Choice's sworn testimony that denial of a waiver for HD devices would shut down its offering of new HD devices. Instead, the Bureau only stated generically that:

Certain Petitioners argue that Waiver Request grants are necessary to assist in the development of new and improved digital cable services As we stated in the *January 10 Orders*, we do not find that such arguments generally justify a waiver under Section 629(c) of the Act. While it could be argued that a waiver under Section 629(c) would assist the development or introduction of virtually any service offered by an MVPD, we do not believe that Congress intended for us to interpret this narrowly tailored exception in such a lenient manner. Indeed, as we stated in the *BendBroadband Order*, such an interpretation would effectively negate any rules adopted pursuant to Section 629(a).³⁴

But blindly applying this conclusion no matter what the evidence that a new service would be affected (such as Choice's HD and DVR services) would effectively negate Section 629(c). The logic of the "January 10 Orders" was that the Commission was not required to grant waivers under Section 629(c) in the name of facilitating a "new or improved" service that an MVPD already offered and would continue to offer regardless of a waiver.³⁵ The Bureau accordingly held that such mandatory waivers should be

³² *1996 Act Conference Report* at 181.

³³ 47 U.S.C. § 549(c).

³⁴ *Consolidated Order* at ¶ 57.

³⁵ *Comcast Corporation Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, CSR-7012-Z, Memorandum Opinion and Order, DA 07-49, ¶¶ 17-19 (rel. Jan. 10, 2007) ("*Comcast Order*").

reserved “where necessary to assist the development or introduction of new or improved services that otherwise would be prohibited.”³⁶ But under that precedent, the Bureau should have granted Choice a waiver for HD and DVR devices – without which Choice is effectively prohibited from offering new HD and DVR services.

Thus, the *Consolidated Order* does not address any of Choice’s individualized circumstances, at all. Such individualized consideration is required by law. As the D.C. Circuit explained in *WAIT Radio v. FCC*:

The Commission is charged with administration in the “public interest.” That an agency may discharge its responsibilities by promulgating rules of general application which, in the overall perspective, establish the “public interest” for a broad range of situations, does not relieve it of an obligation to seek out the “public interest” in particular, individualized cases.³⁷

Therefore, the Bureau clearly committed prejudicial procedural error in (apparently) failing to grant an important part of Choice’s requested relief without considering and explaining the reasons for rejecting well-pled arguments supported by detailed evidence. The Bureau’s failure to address Choice’s arguments is particularly remarkable given that on the same day it granted a waiver to Guam Cablevision, holding that: “In light of GCL’s unique circumstances stemming from delivering cable service in a typhoon-prone, *underdeveloped market far from the contiguous 48 states*, we conclude that good cause exists for a limited waiver until December 31, 2009, and that such a waiver will serve the public interest in this specific instance.”³⁸

³⁶ *Comcast Order* at ¶ 19.

³⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

³⁸ *Guam Cablevision, LLC Request for Waiver*, CSR-7193-Z, Memorandum Opinion and Order, DA 07-2917, ¶ 13 (rel. June 29, 2007) (emphasis added). Puerto Rico is also in a hurricane-prone region. See U.S. National Oceanic and Atmospheric Administration, <http://www.srh.noaa.gov/sju/hrcnhist.html> (listing more than 120 hurricanes and tropical storms that have passed over or near Puerto Rico and the Virgin Islands). Although Guam Cablevision did not request a waiver for HD or DVR devices, and therefore did not receive one, the record does not indicate that it has ordered any CableCARD HD/DVRs, and the Bureau did not hold that it would deny such a request.

Moreover, the Bureau’s general conclusion in support of imposing the ban on HD and DVR devices – that “the costs that this requirement will impose should be counterbalanced to a significant extent by the benefits likely to flow from a more competitive and open supply market”³⁹ – may be true nationally, but the uncontroverted record of evidence in this case shows that it is not true in Choice’s service area in Puerto Rico for the reasonably foreseeable future. The record includes no commitments of any kind by a consumer electronics manufacturer to immediately offer a retail HD/DVR device in Puerto Rico as a result of the integration ban, a rule that has now taken effect with no such entry by TiVo or others. Moreover, the record includes no commitments of any kind by any consumer electronics manufacturer to soon offer any type of retail CableCARD device that is generally suited to the demographics of the rural Puerto Rican market, which they have so far almost entirely ignored. And even if the CE industry suddenly offered all of the navigation choice options that they now offer in the continental United States in Puerto Rico, the Puerto Rico Telecommunications Regulatory Board explained that Puerto Rican cable consumers “on average have lower incomes and [are therefore] less likely to purchase a high-end set-top than consumers in the mainland United States.”⁴⁰

On this record, it would be unreasonable to justify denial of Choice’s waiver on a theory that the ban itself will lead to new low-cost navigation devices at retail that will help consumers. Even if this theory has merit with respect to the continental United States, it could and should be tested first only there, and not in rural Puerto Rico where its intervening impact is only to completely shut down Choice’s offering of HD and DVR

³⁹ *Consolidated Order* at fn. 247.

⁴⁰ CSR-7124-Z, Comments of the Telecomm. Regulatory Board of Puerto Rico at 2 (Mar. 19, 2007).

services. As the Puerto Rico Telecommunications Regulatory Board explained:

The Board understands that some proponents of the integration ban contend that the integration ban will help to create both a supply of and demand for competitive, low-cost navigation devices that could benefit lower-income consumers. But that experiment can and should first be played out in the mainland United States, where consumers are better able to afford the costs of the ban. *If* application of the integration ban in the mainland eventually proves to have stimulated the development and adoption of retail navigation devices, and *if* consumer electronics companies begin to sell more CableCARD-ready devices that are suitable for and available in the Puerto Rican market, and *if* [a Puerto Rican operator] fails to provide adequate support for such devices, the Commission could revisit whether to apply the rule [in Puerto Rico]. A waiver for consumers in Puerto Rico will not undermine the potential success of the integration ban in the mainland any more so than will its non-application in other parts of the Caribbean. By contrast, denial of the waiver would unnecessarily saddle Puerto Rican consumers with significant costs that many cannot afford to bear, pushing digital services out of reach for many.⁴¹

Therefore, to the extent that any party argues that the Bureau answered Choice's Puerto Rico-specific arguments with its footnote that "the costs that this requirement will impose should be counterbalanced to a significant extent by the benefits likely to flow from a more competitive and open supply market," such a conclusion by the Bureau would be an erroneous finding as to an important or material fact, contrary to the record evidence of the market and demographics of rural Puerto Rico.

Whatever the Bureau's ultimate view would be of Choice's arguments had it addressed them, Choice's Request for Waiver presents an important question of public policy that has never been addressed by the Commission. Both the MVPD and navigation device markets in rural Puerto Rico are entirely different from the continental United States, and the Commission has never publicly considered whether the ban makes any sense for Puerto Rican consumers in light of these differences. As Liberty

⁴¹ *Id.* at 3-4.

Cablevision of Puerto Rico explained:

There is no evidence in the record that the Commission has considered and determined that the integration ban would produce the same consumer benefits in rural Puerto Rico as in the continental United States. In fact, the Commission's regulations reveal that the Puerto Rican market was not considered to be a relevant part of the Commission's analysis in its prior orders. Section 76.1204(a)(2) of the Commission's rules exempt from the integration ban (in Puerto Rico and otherwise) any MVPD that supports the active use by subscribers of navigation devices that "operate throughout the *continental United States*" 47 C.F.R. § 76.1204(a)(2). In the prior proceedings in which the Commission considered the integration ban, Puerto Rico simply was not even on the Commission's map."⁴²

Likewise, the Honorable Luis Fortuño, the Member of Congress from Puerto Rico, explained that the integration ban "appears to have been designed primarily with the markets in the continental United States in mind," and that the "communications market and the economy in Puerto Rico are very different from the continental United States, and deserve individual consideration with respect to a significant rule such as the integration ban."⁴³

The Commission is required to "take a 'hard look' at meritorious applications for waiver,"⁴⁴ and waive a generally-beneficial regulation in individualized circumstances where application of the rule would result in costs to the public that would outweigh its incremental benefits.⁴⁵ Under those standards, the Commission has frequently granted

⁴² See Liberty Cablevision Request for Waiver at 7-8.

⁴³ CS Docket 97-80, Letter from Hon. Luis Fortuño, Member of Congress from Puerto Rico, to Hon. Kevin J. Martin, Chairman, Federal Communications Commission, March 15, 2007

⁴⁴ *KCST-TV, Inc. v. FCC*, 699 F.2d 1185, 1191-1192 (D.C. Cir. 1983) (vacating FCC denial of waiver request, holding that once the premise of the rule had been shown not to apply, the "logic of applying [the rule] collapses," and it was arbitrary to apply the rule, *id.* at 1192, 1195). See also *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969) ("[A] general rule, deemed valid because the overall objectives are in the public interest, may not be in the 'public interest' if extended to an applicant who proposes a new service that will not undermine the policy, served by the rule, that has been adjudged in the public interest.").

⁴⁵ See 47 C.F.R. § 76.7(i) ("The Commission, after consideration of the pleadings, may determine whether the public interest would be served by the grant, in whole or in part, or denial of the request"); see also

waivers and other forms of individualized treatment to operators in Puerto Rico and other insular areas in light of exceptional circumstances in these areas, such as “weak economic conditions” and the low penetration of MVPD services.⁴⁶ The record clearly shows that the same result is warranted here.

There are no winners from the Bureau’s apparent decision to deny Choice the ability to offer HD and DVR devices for the foreseeable future.⁴⁷ Choice will lose the ability to offer HD and DVR functionality that its customers would otherwise increasingly buy. HD programmers in Puerto Rico will lose because fewer consumers will have HD capability in their homes. Retailers will lose because fewer Choice customers will want to purchase HDTV televisions, even as the DTV transition approaches. And Puerto Rican consumers will lose, denied new and exciting cable HD and DVR services in the cause of a rule that can’t help them.

That there are no winners is reflected in the fact that no party opposed Choice’s waiver. This is not surprising, just as it is not surprising that no one is lobbying for the adoption of an integration ban in Jamaica: in short, it makes no sense for the ban to be implemented prematurely and unnecessarily in a low-income Caribbean market at the same instant that it became effective in the continental United States. A later

⁴⁶ 47 C.F.R. § 1.3 (“Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”).

⁴⁶ See, e.g., *Applications for Transfer of Control WAPA-TV, San Juan, PR*, ID No. 52073, Letter Order, DA 07-500 (rel. Feb. 2, 2007) (granting exception from 47 C.F.R. § 73.3555(b) for television stations in Puerto Rico, noting “weak economic conditions” (“The gross national income per capita is only 30% of the U.S.’ average and the average wage earned by island residents is only 54% of that earned by mainland residents. Outside of San Juan, the income differential is even more dramatic”) and low MVPD penetration (“cable subscription on Puerto Rico is limited to approximately 25% of TV households and only 20% of TV households subscribe to DBS. This is substantially below the subscription rate of over 80% for multi-channel video providers in the United States.”). Choice’s penetration is 22%. Request for Waiver at 3.

⁴⁷ The only possible winners are DirecTV and DISH Networks, who continue to offer proprietary, integrated HD and DVR devices to consumers in Puerto Rico. Choice would lose an increasing number of its customers to these much larger competitors if it is unable to do the same.

implementation would not deny Puerto Ricans any of the potential long-term conjectured benefits of the rule, but denial of the waiver in the meantime will deny many Puerto Ricans access to HD and DVR services. The Commission should therefore grant Choice its requested, temporary waiver.

Respectfully Submitted,
Choice Cable T.V.

/s/ Jorge L. Bauermeister

By: Jorge L. Bauermeister
Its Attorney

Bauermeister Law Offices
VIG Tower
1225 Ponce de Leon Ave.
Suite 1505
Santurce, PR 00907

July 30, 2007



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

October 26, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1),
CSR-7201-Z*

Dear Ms. Dortch:

On October 25, 2007, Paul Hudson of Davis Wright Tremaine LLP, and Jorge Bauermeister, Counsel for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (“Choice”) met with Mary Beth Murphy, Steven Broeckaert, Brendan Murray and Dave Konczal of the Media Bureau to discuss Choice’s request for a waiver of the integration ban. On October 26, 2007, Paul Hudson discussed the same matter separately with Monica Desai, Chief of the Media Bureau.

In these meetings, we emphasized that Choice’s customers will soon be unable to obtain HD devices from any source and that Choice will have to scale back its plans to expand its HD service offerings unless the requested waiver is granted. Given the low-income demographics of its rural Puerto Rican market,¹ Choice has determined that it is not financially viable for it to purchase and attempt to lease the new CableCARD HD or DVR set-top boxes, which are approximately twice as expensive as the refurbished integrated HD and DVR devices that Choice could obtain on the secondary market if it were granted a waiver. Choice expects to run out of its existing supply of used HD devices before or during the 2007 holiday shopping season.

Because Choice would no longer be able to supply HD devices to additional customers, it would be forced to scale back its planned additions of new HD channels. Choice currently offers six HD channels and would intend to double or triple that number by December 2008 if the

¹ See Choice Request for Waiver at 2-3 (using census data to show that the median household income in Choice’s service area is \$12,960 (one quarter of the national median) and that 52.8% of all people live below the poverty level.).

requested waiver is granted, using capacity reclaimed from its recent transition to an all-digital network. But Choice has been forced to put on hold these HD expansion plans given the uncertainty as to whether it will be able to supply HD devices to its customers.²

If a cable operator on the mainland did not offer HD devices, its customers could instead purchase CableCARD devices at retail.³ However, these devices are not available at retail in Choice's market, and the few devices that can be purchased from outside of its region are unaffordable to most of Choice's customers. There are no Circuit City or Best Buy stores anywhere in Puerto Rico. Most people in Choice's market instead buy televisions either from independent retailers or from Sears or Radio Shack. Within the past week, a Choice employee contacted Sears and Radio Shack in Ponce (the largest city in Choice's service area) and determined that there was not a single CableCARD DTV or Tivo available at either. For customers willing to travel as many as 100 miles to the San Juan metropolitan area, Choice was able to find two CableCARD device models at a CompUSA store, but these were 61" and 65" televisions priced at approximately \$2700 and \$2200 -- well beyond the price range of nearly all of Choice's customers. It is therefore not surprising that Choice still has never received an order from any customer for a CableCARD.

There is no benefit in requiring Choice's low-income customers to bear the much higher costs of leased CableCARD devices for the purpose of facilitating Choice's support for retail CableCARD products that are unavailable in its market. This is why the Telecommunications Regulatory Board found that "the integration ban ... is a solution for a problem that does not clearly exist in Puerto Rico,"⁴ and why the Honorable Luis Fortuño, the Member of Congress from Puerto Rico, wrote to Chairman Martin that the integration ban "appears to have been designed primarily with the markets in the continental United States in mind," and "would have a disproportionately severe impact on Puerto Rican consumers given the demographics of the Commonwealth."⁵ Therefore, there would be no detriment to Puerto Rican consumers to grant Choice a waiver of limited duration through 2009, at which time the Commission could revisit whether CableCARD devices had become more widely available in Puerto Rico for Choice to support.

Finally, Choice explained that a waiver for DVR devices is also important to its ability to market HD devices to customers. Integrated HD/DVR devices cost only marginally more than HD-only devices, but DVR functionality is a very compelling service that helps many customers

² Choice still intends to add two additional HD channels this fall to fulfill earlier promises to existing HD customers.

³ Even then, this option would be little consolation to a customer who had already purchased an expensive new HDTV without a CableCARD slot.

⁴CSR-7124-Z, Comments of the Telecommunications Regulatory Board of Puerto Rico (Mar. 19, 2007).

⁵ See Request for Waiver at Exhibit 1 (Letter from Hon. Luis Fortuño, Member of Congress from Puerto Rico, to Hon. Kevin J. Martin, Chairman, Federal Communications Commission, March 15, 2007).

Marlene H. Dortch
Secretary
Federal Communications Commission
October 26, 2007
Page 3

justify the expense of leasing an HD device. A waiver for DVR functionality therefore helps to sell HDTV in aid of the DTV transition.⁶

In summary, the integration ban threatens to shut down Choice's HD offering without any offsetting benefit to consumers in Puerto Rico. Grant of the requested waiver would immediately lead to more HD channels, more demand for HDTVs, and more new and improved HD and DVR services available to Choice's customers. The Commission⁷ should therefore grant Choice's unopposed request for waiver.

Respectfully submitted,



Paul B. Hudson
Counsel for Puerto Rico Cable Acquisition Corp.

cc: Monica Desai
Mary Beth Murphy
Steven Broecker
Brendan Murray
Dave Konczal

⁶ Moreover, there is no sound basis to apply the integration ban to Choice's DVRs (HD or otherwise) given that the ban cannot produce any significant benefits for Choice's customers at this time.

⁷ Choice has no objection to the Bureau reconsidering its June 29 order *sua sponte* pursuant to 47 C.F.R. § 1.113(a) for purposes of granting the requested waiver. The Bureau has authority to waive the 30-day limitation for such actions for good cause or where such action would serve the public interest. *See Request for Review of the Decision of the Universal Service Administrator by Pioneerland Library System Willmar, Minnesota*, File No. SLD-32103, Order on Reconsideration, DA 01-353, ¶¶ 6-8 (rel. Feb. 13, 2001) (Common Carrier Bureau issued *sua sponte* order on reconsideration granting requested relief more than 30 days after its denial order, waiving the 30-day rule pursuant to Section 1.3 of the Commission's rules.) The public interest would be served by a waiver of the ordinary time limit in Rule 1.113 given that the requested relief is necessary to preserve the ability of Choice customers to obtain HD cable services, and good cause exists for a waiver of the time limit since Choice promptly advised the Commission and the public of the June 29 order's failure to address part of Choice's requested relief in its timely-filed Application for Review. If the Bureau grants Choice's requested waiver in a reconsideration order, Choice would withdraw its pending Application for Review as moot.



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

November 16, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1),
CSR-7201-Z*

Dear Ms. Dortch:

On November 15, 2007, Paul Hudson of Davis Wright Tremaine LLP, Counsel for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (“Choice”) met with Michelle Carey, Media Advisor to Chairman Martin to discuss Choice’s request for a waiver of the integration ban. In this meeting, I reemphasized the unique circumstances of the rural Puerto Rican market described in Choice’s October 26, 2007, letter filed in this proceeding.

In short, unless the Commission takes immediate action to grant the remainder of Choice’s unopposed request for waiver, Choice’s HD offering will soon be shut down to customers who have purchased new HDTVs during the holiday season. Choice will later become unable even to replace broken HD converters for existing customers. The cloud cast by this looming uncertainty over Choice’s ability to offer HD service has already forced the company to suspend the expansion of its HD channel offering.

Choice’s customers would receive nothing in return from the shutdown of HD, because, unlike the mainland United States, there are no retail CableCARD devices available in Choice’s market for Choice to support. Imposition of the integration ban in rural Puerto Rico would be unjustified on any schedule until CE manufacturers develop and ship CableCARD devices suitable for Choice’s market. But at a minimum the Commission should avoid implementing the ban on a schedule, designed for the mainland, that chokes off the growth of HD in southwestern Puerto Rico in the year leading up to the DTV transition. Denial of Choice’s requested relief would therefore impose the ban in the wrong place at very much the wrong time.

Marlene H. Dortch
Secretary
Federal Communications Commission
November 16, 2007
Page 2

Grant of the requested relief would immediately lead to more HD channels, more demand for HDTVs, and more new and improved HD and DVR services available to Choice's customers. The Commission should therefore grant Choice's unopposed request for waiver.

Respectfully submitted,



Paul B. Hudson
Counsel for Puerto Rico Cable Acquisition Corp.

cc: Michelle Carey
Monica Desai
Mary Beth Murphy
Steven Broeckaert
Brendan Murray
Dave Konczal



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

December 19, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1),
CSR-7201-Z*

Dear Ms. Dortch:

On December 19, 2007, Paul Hudson of Davis Wright Tremaine LLP, Counsel for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (“Choice”) met in separate meetings with Amy Blankenship of Commissioner Tate’s office, Rudy Brioché of Commissioner Adelstein’s office, Cristina Chou Pauzé of Commissioner McDowell’s office, and Rick Chessen of Commissioner Copps’ office to discuss Choice’s Application for Review regarding its unopposed request for a temporary waiver from the integration ban. In these meetings, I reemphasized that Choice’s ability to offer HD and DVR functionality to new customers and to add additional HD channels faces an imminent shutdown unless the requested waiver is granted, for the reasons explained in its Application for Review and in its October 26, 2007, letter filed in this proceeding.

I also provided a copy of the attached letter from the Hon. Luis Fortuño, the Member of Congress from Puerto Rico, to Chairman Martin supporting Choice’s requested waiver. In this letter, Rep. Fortuño voiced his “grave concern that the digital transition will be imperiled in significant portions of Puerto Rico unless the Commission quickly takes action to grant [Choice’s] requested waiver,” and implored that “it would be unconscionable and contrary to Congressional intent for the Commission to shut down Choice’s HDTV transition and leave any consumers unable to purchase HD cable services during this critical next fourteen months before analog broadcasting is terminated in February 2009.” I also provided this letter to the above-mentioned individuals, and to Michelle Carey of Chairman Martin’s office and to Monica Desai, Mary Beth Murphy, Steven Broeckert, Brendan Murray and David Konczal of the Media Bureau by e-mail on December 18, 2007.

Marlene H. Dortch
Secretary
Federal Communications Commission
December 19, 2007
Page 2

Because the median household income in Choice's service area is less than \$13,000, the only way that most of Choice's customers can afford to lease HD or DVR devices is if Choice is permitted to use refurbished devices from the secondary set-top box market that serves Latin America. These refurbished, integrated devices now cost less than half of the price of the new CableCARD devices available from Motorola in North America.

Choice's customers would receive nothing in return from the shutdown of HD, because, unlike the mainland United States, there are no retail CableCARD devices available in Choice's market for Choice to support.¹ There would be no benefit to doubling the cost of Choice's leased HD/DVR devices for the purpose of assuring Choice's support of CableCARD devices that are not even available for its customers to buy. This fact is presumably one reason why no consumer electronics manufacturer has opposed Choice's request. And in any case, Choice's HD box price will not double if the waiver is denied; it will simply not have any boxes to provide to new customers at any price.

Section 629 was intended to increase consumer choice, but Choice's customers seeking HD cable will have no choice at all unless the requested waiver is granted. As we have previously demonstrated, grant of the requested relief would immediately lead to more HD channels, more demand for HDTVs, and more new and improved HD and DVR services available to Choice's customers in southwestern Puerto Rico. The Commission should therefore grant Choice's unopposed request for waiver.

Respectfully submitted,



Paul B. Hudson
Counsel for Puerto Rico Cable Acquisition Corp.

cc: Michelle Carey
Amy Blankenship

¹ See Choice's October 16, 2007 ex parte at 2 ("Within the past week, a Choice employee contacted Sears and Radio Shack in Ponce (the largest city in Choice's service area) and determined that there was not a single CableCARD DTV or Tivo available at either. For customers willing to travel as many as 100 miles to the San Juan metropolitan area, Choice was able to find two CableCARD device models at a CompUSA store, but these were 61" and 65" televisions priced at approximately \$2700 and \$2200 -- well beyond the price range of nearly all of Choice's customers. It is therefore not surprising that Choice still has never received an order from any customer for a CableCARD."); see also Liberty Cablevision of Puerto Rico Request for Waiver, CSR-7124-Z, at 9-10 (Feb. 14, 2007) ("An LCPR employee recently visited one of the larger electronics retailers in its service area to search for CableCARD-ready devices; he found only one CableCARD set out of twenty different digital models available. Even for the small number of consumers willing to buy a digital television without seeing it, Amazon.com and many other on-line retailers will not ship DTVs to Puerto Rico.")

Marlene H. Dortch
Secretary
Federal Communications Commission
December 19, 2007
Page 3

Rudy Brioché
Rick Chessen
Cristina Chou Pauzé
Monica Desai
Mary Beth Murphy
Steven Broeckaert
Brendan Murray
Dave Konczal



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

March 7, 2008

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1),
CSR-7201-Z*

Dear Ms. Dortch:

On March 6, 2008, Edwin Stevenson, John Gdovin and Pat Murphy for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (“Choice”), and Paul Hudson and Jorge Bauermeister, counsel for Choice, met in separate meetings with Commissioner Adelstein and his legal advisor Rudy Brioché; Commissioner McDowell and his legal advisor Cristina Chou Pauzé; Michelle Carey, Legal Advisor to Chairman Martin and Monica Desai, Chief of the Media Bureau; and Rick Chesson, legal advisor to Commissioner Copps. At these meetings, Choice summarized and updated the case in support of its Application for Review regarding its unopposed request for a temporary waiver from the integration ban.

The Commission has long recognized that the integration ban imposes significant costs on consumers, but has found that those costs are outweighed by even greater benefits. But because of the unique circumstances of Choice’s rural Puerto Rican market, the costs of the ban are much, much higher, and the benefits non-existent.

Because the median household income in Choice’s service area is less than \$13,000, the only way that most of Choice’s customers can afford to rent HD or DVR devices is if the Commission continues to allow Choice to use refurbished devices from the secondary set-top box market that serves Latin America. But because CableCARD box models are brand new, there is not yet a market for second-hand refurbished CableCARD units. Under the integration ban, therefore, Choice would have to switch from using refurbished integrated boxes to brand-new CableCARD HD/DVR boxes, which would approximately double its costs for the box.

In Choice's challenging market, a doubling of HD set-top box prices would change HD from a difficult product to sell to a nearly impossible product to sell.¹ The same would be true of DVR service. Choice's HD and DVR services will therefore be effectively shut down to new customers once Choice runs out of integrated HD/DVR devices within a couple of weeks. It is possible that Choice could later order CableCARD boxes and find a few customers willing to pay for them, but the Commission should not have any interest in an outcome in which HD programming is reserved for the rich even as the price of HD sets becomes more affordable.

We also noted that due to satellite positioning, DirecTV does not offer HD service in Puerto Rico, and DISH offers only a very limited HD package (most of DISH's HD programming is transmitted by satellites not accessible with ordinary DISH receivers). Thus, because consumers in southern and western Puerto Rico generally cannot obtain HD from DBS or by using retail CableCARD devices,² if the Commission shuts down Choice's HD by failing to grant a waiver, it will have effectively shut down the availability of most HD to new customers altogether in much of Puerto Rico.

The higher costs of the integration ban in rural Puerto Rico – the doubling of set-top costs and the virtual denial of HD programming to new customers – alone would justify the requested waiver. But the waiver is also compelled by the fact that the ban provides absolutely no benefit to Puerto Rican consumers at this time. The purpose of the integration ban is to assure that cable operators have the incentive to support CableCARDS in retail devices. But CableCARD devices are not available within Choice's service area for its customers to buy. As Choice has previously demonstrated, the major electronics retailers in its area, Sears and Radio Shack, did not have a single CableCARD unit in stock in Ponce, the largest city in Choice's service area.³ The first Circuit City in Choice's region recently opened in Ponce, but Choice contacted the store this week and it also does not carry a single CableCARD unit. Choice previously noted that it found

¹ The impact of the cost increase in set-top box unit cost would be magnified by the fact that the expected lifespan for a Choice set-top box (whether new or used) is much shorter than on the mainland. Choice is unable to recover approximately 2000 set-top boxes every month from customers whose service is disconnected for non-payment. (Because of the economic conditions in Puerto Rico, Choice's disconnection rate is significantly higher than for a typical mainland operator). In addition, the antiquated electric utility systems in parts of Choice's region are subject to frequent power surges that destroy 3000-4000 of its set-top boxes every year.

² As Choice has previously explained, there are no retail CableCARD devices available in Choice's market for Choice to support. *See* Choice's October 26, 2007 ex parte at 2 ("Within the past week, a Choice employee contacted Sears and Radio Shack in Ponce (the largest city in Choice's service area) and determined that there was not a single CableCARD DTV or Tivo available at either. For customers willing to travel as many as 100 miles to the San Juan metropolitan area, Choice was able to find two CableCARD device models at a CompUSA store, but these were 61" and 65" televisions priced at approximately \$2700 and \$2200 -- well beyond the price range of nearly all of Choice's customers."); *see also* Liberty Cablevision of Puerto Rico Request for Waiver, CSR-7124-Z, at 9-10 (Feb. 14, 2007) ("An LCPR employee recently visited one of the larger electronics retailers in its service area to search for CableCARD-ready devices; he found only one CableCARD set out of twenty different digital models available. Even for the small number of consumers willing to buy a digital television without seeing it, Amazon.com and many other on-line retailers will not ship DTVs to Puerto Rico.")

³ *See supra* n. 2.

Marlene H. Dortch
Secretary
Federal Communications Commission
March 7, 2008
Page 3

two very expensive CableCARD units at a CompUSA store 100 miles away in San Juan, but all CompUSA stores in Puerto Rico subsequently have closed. A new Best Buy opened last week in San Juan (the first on the island), but it does not have any CableCARD devices and it will not allow Puerto Rican customers to buy one online and have it shipped to them.

Nor will Amazon ship DTVs to Puerto Rico, and Tivo will not ship its CableCARD devices to Puerto Rico and does not support its service there. It is clear that the consumer electronics industry has not yet made a serious effort to develop CableCARD products suitable for the Puerto Rican market and sell them there. This is presumably why CEA, Sony and other proponents of the integration ban have not opposed Choice's Application for Review seeking a *temporary*⁴ waiver.

Denial of the waiver or Commission inaction will within a few weeks leave consumers in southwestern Puerto Rico unable to obtain new HD service from any source. It would be utterly pointless and contrary to the Commission's broader objectives for the Commission to double the cost of Choice's leased HD/DVR devices for the purpose of assuring Choice's support of CableCARD devices that are not even available for its customers to buy. By contrast, grant of the requested waiver would immediately lead to more HD channels, more demand for HDTVs, and more new and improved HD and DVR services available to Choice's customers. The Commission should therefore grant Choice's unopposed request for waiver.

Respectfully submitted,



Paul B. Hudson
Counsel for Puerto Rico Cable Acquisition Corp.

cc: Michelle Carey
Rudy Brioché
Rick Chessen
Cristina Chou Pauzé
Amy Blankenship
Monica Desai
Thomas Horan

⁴ In its April 2007 request, Choice asked for a waiver of at least three years. The period for a waiver should begin as of the date the waiver is granted, and not the July 2007 effective date of the integration ban. Choice's ability to promote and aggressively market HD has been in a state of near-suspended animation while awaiting the Commission's decision on its request. In addition, it still appears that it will be at least three years from now before refurbished CableCARD set-top boxes become available and before the consumer electronics industry develops retail CableCARD products affordable to mainstream Puerto Rican consumers.

Marlene H. Dortch
Secretary
Federal Communications Commission
March 7, 2008
Page 4

Nancy Murphy
Mary Beth Murphy
Steven Broeckaert
Brendan Murray
Dave Konczal



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

April 1, 2008

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1), CSR-7201-Z*

Dear Ms. Dortch:

On April 1, 2008, Paul Hudson, counsel for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (“Choice”), had an *ex parte* conversation with Elizabeth Andrión, Deputy Chief of the Office of Strategic Planning and Policy Analysis, regarding Choice’s request for a temporary waiver from the integration ban.

Choice has previously explained in this proceeding that it would become unable to offer HD or DVR service to new customers if it did not receive the requested waiver.¹ Choice has now run out of HD and DVR set-top boxes and is effectively no longer able to deliver such services to new customers on a timely and predictable basis.²

Because it cannot expand its customer base for HD service, Choice cannot add additional HD programming.³ Thus, Choice’s existing HD customers cannot obtain new HD channels, and its customers buying HDTVs for the first time cannot be assured that they can obtain cable HD programming at all. Since DirecTV does not offer HD service and DISH offers only a very limited HD package in Puerto Rico, the integration ban has shut down the availability of most HD to new customers altogether in much of Puerto Rico.⁴

¹ See Choice Application for Review (July 30, 2007) and Choice *ex parte* letters dated Oct. 26, 2007; Nov. 16, 2007; Dec. 19, 2007; Jan. 10, 2008; and March 7, 2008.

² Choice will as needed maintain a waitlist for HD and DVR services and will continue to deploy used boxes that are returned by customers, as they become available.

³ See Choice’s October 26, 2007 *ex parte* letter at 1-2.

⁴ See Choice’s March 7, 2008 *ex parte* letter at 2.

Marlene H. Dortch
Secretary
Federal Communications Commission
April 1, 2008
Page 2

Puerto Ricans receive nothing in return from the shutdown of HD and DVR service. The integration ban is pointless in rural Puerto Rico at this time because, unlike the mainland United States, CE manufacturers do not sell any CableCARD products at retail in Choice's service area.⁵ It makes no sense to deny Choice's customers access to the only HD/DVR boxes they can afford (the integrated devices refurbished for the Latin American market) for the sole purpose of backstopping Choice's support for CableCARD devices that are not even available for Choice's customers to buy.

Nearly four months ago, the Hon. Luis Fortuño, the Member of Congress from Puerto Rico, wrote to Chairman Martin to emphasize the urgency of Choice's requested waiver. In this letter, Rep. Fortuño voiced his "grave concern that the digital transition will be imperiled in significant portions of Puerto Rico unless the Commission quickly takes action to grant [Choice's] requested waiver," and implored that "it would be unconscionable and contrary to Congressional intent for the Commission to shut down Choice's HDTV transition and leave any consumers unable to purchase HD cable services during this critical next fourteen months before analog broadcasting is terminated in February 2009." Yet that is now exactly what has happened.

Congress required the Commission to act on requests for waiver of its navigation devices rules "within 90 days of any application."⁶ Through its seven filings in support of its waiver and through the visit of its leadership to the Commission, Choice has made every effort to provide the Commission with all of the information that could conceivably be necessary for a decision on Choice's unopposed request for waiver. The Commission needs to address Choice's pending application without further delay to avoid further unnecessary harm to the consumers of southwestern Puerto Rico. Grant of the requested waiver would immediately lead to more HD channels, more demand for HDTVs, and more new and improved HD and DVR services

⁵ For example, CableCARD TiVos are available to be shipped to any address on the U.S. mainland, but are not supported in Puerto Rico and TiVo will not ship its devices to Puerto Rico. *See also* Choice's October 26, 2007 ex parte at 2 ("Within the past week, a Choice employee contacted Sears and Radio Shack in Ponce (the largest city in Choice's service area) and determined that there was not a single CableCARD DTV or Tivo available at either. For customers willing to travel as many as 100 miles to the San Juan metropolitan area, Choice was able to find two CableCARD device models at a CompUSA store, but these were 61" and 65" televisions priced at approximately \$2700 and \$2200 -- well beyond the price range of nearly all of Choice's customers. It is therefore not surprising that Choice still has never received an order from any customer for a CableCARD."); *see also* Liberty Cablevision of Puerto Rico Request for Waiver, CSR-7124-Z, at 9-10 (Feb. 14, 2007) ("An LCPR employee recently visited one of the larger electronics retailers in its service area to search for CableCARD-ready devices; he found only one CableCARD set out of twenty different digital models available. Even for the small number of consumers willing to buy a digital television without seeing it, Amazon.com and many other on-line retailers will not ship DTVs to Puerto Rico.")

⁶ 47 U.S.C. § 549(c) ("Upon an appropriate showing, the Commission shall grant any such waiver request within 90 days of any application filed under this subsection..."). *See also Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Notice of Proposed Rulemaking, 12 FCC Rcd. 5639, 5672 ¶ 80 (1997) ("[T]he statute requires that waiver requests directed to rules adopted to implement this section be decided within 90 days of the filing of an application for waiver.").

Marlene H. Dortch
Secretary
Federal Communications Commission
April 1, 2008
Page 3

available to Choice's customers. The Commission should therefore grant Choice's unopposed request for waiver.

Respectfully submitted,



Paul B. Hudson
Counsel for Puerto Rico Cable Acquisition Corp.

cc: Elizabeth Andrion
Michelle Carey
Rudy Brioché
Rick Chessen
Cristina Chou Pauzé
Amy Blankenship
Monica Desai
Thomas Horan
Nancy Murphy
Mary Beth Murphy
Steven Broeckaert
Brendan Murray
Dave Konczal



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

April 10, 2008

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1),
CSR-7201-Z*

Dear Ms. Dortch:

On April 9 and 10, 2008, Paul Hudson, counsel for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (“Choice”), had *ex parte* conversations with Elizabeth Andrion, Interim Legal Advisor to Chairman Martin,¹ regarding Choice’s request for a temporary waiver from the integration ban.

The shutdown of Choice’s ability to offer HD to new customers, as reported in Choice’s April 1, 2008 letter, impacts a substantial portion of the population of rural Puerto Rico. Although the median household income in Choice’s service area is less than \$13,000,² HD televisions have recently become affordable to thousands of additional Puerto Rican families. As evidenced from Exhibit 1 hereto, (non-CableCARD) HD televisions are currently available at retail stores in Choice’s service area for less than \$250 – less than half the cost of a new Motorola CableCARD HD/DVR set-top box. As a result, thousands of Choice customers have recently purchased new HDTVs, including persons at or below the median household income for Choice’s service area.

In early 2008, Choice hired an independent market research agency to survey the communities Choice serves. The survey results revealed that 24% of the households in Choice’s

¹ Choice’s April 1, 2008 letter in this proceeding identified Ms. Andrion as Deputy Chief of the Office of Strategic Planning and Policy Analysis. Choice hereby clarifies that it communicated with Ms. Andrion in her capacity as Interim Legal Advisor to Chairman Martin.

² Choice Application for Review at 4 (citing U.S. Census data).

Marlene H. Dortch
Secretary
Federal Communications Commission
April 10, 2008
Page 2

service area have purchased Plasma or LCD TVs, and that an equal percentage stated that HD was either “very important” or “important” in their valuation of television programming. But despite the fact that approximately one-quarter or more of Choice’s customers have HDTVs, less than 1% subscribe to Choice’s HD service. And now Choice is effectively unable to provide HD service to this large and growing portion of its customer base that has an HDTV in their home.

Accordingly, it would be incorrect to conclude that the shutdown of HD does not affect most Puerto Ricans on the theory that they are unable to afford HD in any event. The Commission should instead aspire for HD service to be available to all Americans. *See* Section 706 of the Telecommunications Act of 1996, directing Commission “to encourage the deployment ...of advanced telecommunications capability to all Americans.” As the Hon. Luis Fortuño, the Member of Congress from Puerto Rico, explained to Chairman Martin in supporting Choice’s requested waiver, it would be “unconscionable and contrary to Congressional intent for the Commission to shut down Choice’s HDTV transition and leave any consumers unable to purchase HD cable services.”³

In the meeting, Choice also repeated that it would be willing to accept a waiver for a limited period of time, so that Choice and the Commission would have an opportunity at the end of that period to revisit whether a waiver would thereafter continue to serve the public interest. Choice’s application filed in April 2007 requested a waiver for at least three years. If the Commission now grants a waiver, the waiver period should extend at least three years from the date of the grant in 2008, and not from the effective date of the integration ban. To be able to undertake and invest in a significant expansion in the number of HD channels it offers,⁴ Choice would need to have a reasonable assurance that it would have at least three years to offer a viable HD service and build a larger HD customer base before a waiver expired. If instead a waiver term was set so that it would expire not on a predetermined date but based on future events, the Commission should assure that the actual expiration of the waiver would not occur until at least eighteen months after such a triggering event, so that Choice could attempt to adjust its business models, programming agreements, equipment orders, and provide notice of changes to its customers.

Choice has demonstrated that consumers in its rural Puerto Rico service area would receive substantial benefits from grant of the requested waiver. At least as importantly, if not more so, Choice has also demonstrated that these consumers would not receive any benefit from the integration ban during the period of the requested waiver, if that waiver is denied. The Commission should therefore grant Choice’s unopposed request for waiver.

³ Letter from Hon. Luis Fortuño, Member of Congress, to Hon. Kevin J. Martin, Chairman, FCC (Dec. 11, 2007) at 2 (emphasis added).

⁴ *See* Choice October 26, 2007 ex parte letter at 1 (stating that Choice would intend to double or triple the number of HD channels it offers if the waiver is granted).

Marlene H. Dortch
Secretary
Federal Communications Commission
April 10, 2008
Page 3

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. Hudson", written in a cursive style.

Paul B. Hudson
Counsel for Puerto Rico Cable Acquisition Corp.

cc: Elizabeth Andrion
Michelle Carey
Rudy Brioché
Rick Chessen
Cristina Chou Pauzé
Amy Blankenship
Monica Desai
Thomas Horan
Nancy Murphy
Mary Beth Murphy
Steven Broeckaert
Brendan Murray
Dave Konczal

WAL*MART
Save money. Live better.™

Free shipping with
site-to-store

Sign in or create a new account
Cart | My Account | Track Order | Help
Registry | Wish List | Gift Cards

SEARCH

FOR

FIND

See all departments

Electronics

You are here: Home Page > Electronics > TVs > All TVs

Emerson 19" Diagonal Widescreen LCD HDTV, SLC195EM8

★★★★ (29 Customer Ratings)

Read reviews or write a review



⊕ Enlarge image

\$249.54

Buy Online

In Stock

ADD TO CART

Add to: [Wish List](#) [Registry](#)

Delivery Options:

- **site-to-store** - Free shipping to store.
- **Ship to home** - Learn More

Find in Stores

Enter ZIP Code: 00715

FIND IN STORE [Learn More](#)

Information below:

- Accessories to Buy
- Item Description
- Specifications
- What's Included
- Similar Items
- Warranty Information
- Gifting Options
- Additional Information

Similar Items



Emerson 20" Diagonal LCD TV with Digital Tuner, LC200EM8

★★★★★

\$238.00



Vizio 26" Diagonal LCD HDTV with Digital Tuner, VW26L

★★★★★

\$474.00

Accessories to Buy



2 Year Extended Service Plan for a TV
Item from \$150 - \$299.99

ONLINE ONLY

★★★★★

\$17.88

Add to order



Logitech Harmony 520 Universal Remote Control

IN MANY STORES

★★★★★

\$74.54

Add to order



Cables Unlimited Component Video/Stereo Audio Cable, 12-ft.

★★★★★

\$19.74

Add to order

[Top of Page](#)

Item Description

Note: You must have a source of HD programming in order to take full advantage of an HDTV. Otherwise, the picture quality of an HDTV without an HD source may not be much better than that of a standard-definition TV. Please contact your local cable or satellite TV provider for details on how to upgrade to HD programming.

Key Features & Benefits:

- **19" widescreen high-definition LCD**
Delivers 1440 x 900 resolution at a 16:9 aspect ratio
- **Built-in digital ATSC/NTSC tuner**
Receives conventional analog broadcasts, as well as over-the-air digital broadcasts including HDTV programs, where available, and unscrambled digital cable
- **S-video input, component video input, headphone output, RF (cable) input, digital audio output (coaxial), PC-IN and audio mini plug**
Accommodate DVD players, camcorders, PCs and other electronic gear
- **Wall mountable**
Mounts on a wall with an optional 100 x 100 mm VESA-compatible kit (sold separately)
- **Additional Features:**
 - UL Listed, FCC/DHHS Certified
 - Energy Star rated
 - Owner's Manual Printed in English and Spanish

Check In-Store Availability (Bela)



Emerson 19" Diagonal Widescreen LCD HDTV,
SLC195EM8
Model #: SLC195EM8

Online and store prices may differ, and prices may vary from store to store.
See Pricing Information for details.

Search Results

We found **11** stores within 100 miles of **00715**. Only stores that carry this product are shown below. (In-stock status is approximate and was last updated on 04/09/2008 at 3:29 AM, E.T.)

CHANGE LOCATION | Sort by: Distance

Store	Availability & Distance	Your Local Store Learn More
Ponce Wal-Mart Supercenter# 5793 #333 Carr #14, Cotto Laurel Ponce, PR 00780 (787) 842-0420	LIMITED STOCK 2.92 miles View Map & Details	MAKE THIS MY STORE
Santa Isabel Wal-Mart Supercenter# 3693 Carr Estatal #153 Km 7.2 Santa Isabel, PR 00757 (787) 971-1000	IN STOCK 14.51 miles View Map & Details	MAKE THIS MY STORE
Cayey Wal-Mart Supercenter# 2721 Pz Calle Cent State 1 735 Cayey, PR 00736 (787) 738-7215	LIMITED STOCK 29.2 miles View Map & Details	MAKE THIS MY STORE
Guayama Wal-Mart# 2072 Ave Los Veteranos Guayama, PR 00784 (787) 864-2039	OUT OF STOCK 30.23 miles View Map & Details	MAKE THIS MY STORE
Hatillo Wal-Mart# 1854 Plaza Del Norte Carr #2 Km 81.9 Hatillo, PR 00659 (787) 860-1020	IN STOCK 35.73 miles View Map & Details	MAKE THIS MY STORE
Bayamon Wal-Mart# 2501 501 West Main Ave Bayamon, PR 00961 (787) 269-2200	IN STOCK 38.12 miles View Map & Details	MAKE THIS MY STORE

Choice Service Area

" " "

Choice Service Area

" " "

Caguas
Wal-Mart Supercenter#
2449
Rafael Cordero Ave # 301
Caguas, PR 00725
(787) 286-8550

OUT OF STOCK

[MAKE THIS MY STORE](#)

39.49 miles
[View Map & Details](#)

Mayaguez
Wal-Mart# 2067
975 Avenue Hostos Ste
2100
Mayaguez, PR 00680
(787) 844-1313

OUT OF STOCK

[MAKE THIS MY STORE](#)

39.61 miles
[View Map & Details](#)

Isabela
Wal-Mart# 2085
3535 Military Ave
Isabela, PR 00662
(787) 830-3030

LIMITED STOCK

[MAKE THIS MY STORE](#)

44.15 miles
[View Map & Details](#)

Carolina
Wal-Mart Supercenter#
2423
Parque Escondido
Carolina, PR 00987
(787) 257-0082

OUT OF STOCK

[MAKE THIS MY STORE](#)

45.65 miles
[View Map & Details](#)

Humacao
Wal-Mart# 2240
Plz Palma Real Pr # 3 Km
77.6
Humacao, PR 00791
(787) 852-9600

OUT OF STOCK

[MAKE THIS MY STORE](#)

50.42 miles
[View Map & Details](#)

Choice Service Area
Choice Service Area

(In-stock status is approximate and was last updated on 04/09/2008 at 3:29 AM, E.T.)

Online and store prices may differ, and prices may vary from store to store. See Pricing Information for details.



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

April 23, 2008

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver, CSR-7201-Z*

Dear Ms. Dortch:

On April 22, 2008, Paul Hudson, counsel for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. ("Choice"), had *ex parte* conversations with Elizabeth Andrion, Interim Legal Advisor to Chairman Martin regarding Choice's request for a temporary waiver from the integration ban. Mr. Hudson also provided the attached summary of the reasons why Puerto Rican consumers would only benefit and would not be harmed by grant of Choice's request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Hudson'.

Paul B. Hudson

cc: Elizabeth Andrion
Michelle Carey
Rudy Brioché
Rick Chesson
Cristina Chou Pauzé
Amy Blankenship
Monica Desai
Thomas Horan
Nancy Murphy
Mary Beth Murphy
Steven Broeckaert
Brendan Murray
Dave Konczal

The Integration Ban in Rural Puerto Rico: Extraordinary Costs and No Benefits

The costs of the integration ban are much greater in rural Puerto Rico than in the mainland:

- Choice is the smallest of the three cable operators in Puerto Rico, and serves the mostly rural southern and western parts of the island. Choice is all-digital and therefore received a waiver for low-cost boxes, but the Bureau still has not acted on Choice's request for a temporary waiver for HD and DVR devices (filed a year ago on April 25, 2007).
- The median household income in Choice's service area is less than \$13,000, and 90% of households have an income less than the U.S. median.¹
- For this reason, Choice has traditionally purchased old, used set-top boxes refurbished for the Latin American market that cost half or less of the price of new devices.
- There are not yet any refurbished CableCARD set-tops available, so the integration ban would force Choice to move from refurbished HD/DVRs that may cost less than \$200 to new CableCARD HD/DVRs that cost more than \$500. In contrast to the more than doubling of Choice's cost, the integration raised the price of new HD set-top boxes by about 15%.
- The doubling of HD set-top prices has shut down Choice's offering of HD service to new customers. Even if Choice ordered HD CableCARD boxes, its customers could not afford the higher lease costs. Choice has therefore not ordered any HD CableCARD devices and cannot provide HD service to new customers except when an existing customer returns a box. As a result, Choice has stopped adding HD channels.
- At least 25% of Choice's customers have purchased HDTVs, most within the past year, but less than 1% currently subscribe to Choice's HD service.
- DirecTV does not offer HD in Puerto Rico, DISH only offers a few HD channels, and PRTC (the ILEC) does not offer video. A cable operator's HD shutdown in Puerto Rico is therefore much more harmful to consumers than it would be on the mainland.
- Four months ago, Congressman Fortuño wrote to the Chairman to voice his "grave concern that the digital transition will be imperiled in significant portions of Puerto Rico unless the Commission quickly takes action to grant [Choice's] requested waiver," and implored that "it would be unconscionable and contrary to Congressional intent for the Commission to shut down Choice's HDTV transition and leave any consumers unable to purchase HD cable services during this critical next fourteen months before analog broadcasting is terminated in February 2009." Yet that is now exactly what has happened.
- Choice would be willing to commit to doubling the number of HD channels it offers by February 2009 if the Commission grants the requested waiver.

The record also shows that rural Puerto Rican consumers will not receive any near-term benefits from the integration ban:

- The purpose of the integration ban is to incent operators to support CableCARDs used in retail devices.
- Choice has been unable to find a single CableCARD device on the shelves of the major retailers in its region. In addition, Tivo does not support its service and will not ship devices to Puerto Rico, and Best Buy and Amazon will not ship DTVs to Puerto Rico.
- This is presumably why Choice’s request is unopposed; CEA’s members have no clear plan to try to sell retail CableCARD devices in rural Puerto Rico in the next three years. And as the Puerto Rico Telecommunications Regulatory Board explained, “A waiver for consumers in Puerto Rico will not undermine the potential success of the integration ban in the mainland any more so than will its non-application in other parts of the Caribbean. By contrast, denial of the waiver would unnecessarily saddle Puerto Rican consumers with significant costs that many cannot afford to bear.”
- The integration ban is therefore incapable of helping Choice’s customers at this time. Choice has only requested a temporary waiver, so the Commission could revisit the waiver in three years if market conditions have changed.
- In the meantime, Choice will support any and all requests for CableCARDs.
- The Commission has never previously decided whether the ban helps Puerto Rican consumers, or whether an HD/DVR waiver is justified under these unique circumstances.

¹ It would be contrary to public policy and incorrect to conclude that the \$13,000 median household income figure is not relevant to the waiver analysis on the theory that families at that income level will not purchase HD in any event. First, Choice’s market research and experience shows that households at the median do purchase HD sets and want HD. Second, the Commission should aspire to make HD available to “all Americans.” See § 706, 1996 Act. Third, nearly all households, and not only the median households, would be significantly impacted by a doubling of Choice’s HD set-top box cost. Approximately 70% of the households in Choice’s service area have an income of less than \$25,000, and approximately 90% have an income lower than the nearly \$50,000 median household income for the U.S. as a whole. See http://factfinder.census.gov/servlet/ADPTable?_bm=y&-context=adp&-qr_name=ACS_2005_EST_G00_DP3&-ds_name=ACS_2005_EST_G00_&-tree_id=305&-redoLog=false&-caller=geoselect&-geo_id=33000US364&-format=&-lang=en (Mayaguez CSA) and http://factfinder.census.gov/servlet/ADPTable?_bm=y&-context=adp&-qr_name=ACS_2005_EST_G00_DP3&-ds_name=ACS_2005_EST_G00_&-tree_id=305&-redoLog=true&-caller=geoselect&-geo_id=33000US434&-format=&-lang=en (Ponce CSA).



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON
DIRECT (202) 973-4275
paulhudson@dwt.com

SUITE 200
1919 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

TEL (202) 973-4200
FAX (202) 973-4499
www.dwt.com

June 2, 2008

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver, CSR-7201-Z*

Dear Ms. Dortch:

On May 30, 2008, Hon. Luis Fortuño, the Member of Congress from Puerto Rico, sent the attached letter to Chairman Martin supporting Choice's requested waiver. On the same day, I sent a copy of this letter by e-mail to Elizabeth Andrión and Dan Gonzalez, advisors to Chairman Martin; Amy Blankenship, legal advisor to Commissioner Tate; Rudy Brioché legal advisor to Commissioner Adelstein; Cristina Chou Pauzé, legal advisor to Commissioner McDowell; Rick Chessen, legal advisor to Commissioner Copps; Monica Desai, Chief of the Media Bureau; Matthew Berry, General Counsel of the Commission; Nancy Murphy, Mary Beth Murphy, Steven Broeckert, Brendan Murray and Dave Konczal of the Media Bureau; and Susan Aaron and Marilyn Sonn of the Office of the General Counsel.

In addition, my email explained that while the Commission has not previously granted waivers for HD or DVR devices to any traditional cable operator, rural Puerto Rico presents an entirely different case and deserves its own consideration. Denial of Choice's waiver request would not result in "common reliance" between Choice's leased devices and retail devices, for two reasons: (1) there are no CableCARD devices available at retail in southern Puerto Rico; and (2) Choice would not deploy many, if any, CableCARD devices regardless of the outcome of this proceeding because its customers cannot afford them. Therefore, unlike the cases in the mainland, denial of the waiver would only needlessly deny HD service to rural Puerto Ricans without providing them any benefit in return.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Hudson', written in a cursive style.

Paul B. Hudson