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To: All Television Clients

November 20, 2008

## **FCC Adopts Rules For Unlicensed Use of Television “White Spaces”**

The FCC recently adopted a *Report and Order* establishing new rules that would allow wireless devices to operate using broadcast television spectrum on a secondary basis at locations where that spectrum is currently unused (known as “white spaces”).

As a safeguard to protect incumbent services from harmful interference, unlicensed “white space” devices must include a geolocation capability and have access, via the Internet, to a data base of incumbent services, including full and low power television stations and cable system headends, so that the unlicensed device will recognize what spectrum is available for use at that location. Wireless microphones also will be protected, either by including in the data base the locations where wireless microphones are used, such as sports venues and event and production facilities, and/or by requiring unlicensed devices to have the ability to sense whether wireless microphones are in use.

Devices that do not include the geolocation and data base access capabilities, and that instead rely on spectrum sensing to avoid causing harmful interference, will be subject to a more rigorous approval process.

Applications for unlicensed devices will be released for public comment prior to agency action, and such devices will be tested by the FCC’s laboratory to determine whether they will cause actual interference to licensed services when in use. For the present time, certification of any such unlicensed devices will require approval by the full Commission. Unlicensed devices that are later found to cause harmful interference will be removed from the market, and the responsible parties will be required to remedy such interference.

If you have any questions about these new rules regarding the use of television “white spaces” by wireless devices, please contact an attorney in our office.

*Leventhal Senter & Lerman PLLC*

This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.  
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