Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	**WT 16-239**
Amendment of Part 97 of the	)	**RM-11708**
Commission's Amateur Radio Service	)	**RM-11759**
Rules to Facilitate High-Frequency	)	**17-344**
Data Communications	)	

To: The Chief, Wireless Telecommunications Bureau
Via: Office of the Secretary

1/31/2019 REPLY TO VARIOUS RECENT COMMENTS

I, Janis Carson, AB2RA, wish to reply to the recent comments below as examples:

https://www.fcc.gov/ecfs/filing/10105608628339
10105608628339
EVRARD
15 Rue Des marguerites 29000 Quimper France

https://www.fcc.gov/ecfs/filing/10105295827832
Raoux Michel
France

https://www.fcc.gov/ecfs/filing/10105286488504
Jean-Denis Muys
France

https://www.fcc.gov/ecfs/filing/123165428612
Michelini Enzo
Italy

https://www.fcc.gov/ecfs/filing/12302528711920
Vito Valendino (several)
Italy

https://www.fcc.gov/ecfs/filing/1230169228988
antonio ferrari
Italy

https://www.fcc.gov/ecfs/filing/1222718116209
Kenton Van lue

https://www.fcc.gov/ecfs/filing/1215020677671
Robert Rennard

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A. INTRODUCTION:

1. We can all agree that the proceedings in this matter have gone on far too long, but we have before us a recent group of comments from maritime users, and some new relevant information. The FCC should act soon and close these proceedings.

2. We can all agree the baud rate rule is obsolete, but it should not be abolished until an effective alternative is devised. The FCC has rightly recognized the rapid change of technology, and does not wish to revisit this regulatory issue again soon. The FCC has proposed to eliminate band width limits on digital emissions (instead of using the ARRL's proposal of 2.8 KHz). The FCC unlimited band width proposal might work, if the automatic ACDS emissions of *any bandwidth*, including the current 97.221 (c) 500 Hz were all included within band segments specified in 97.221 (b). The appropriate size of that band segment is a fair topic for debate, but the FCC instructions allowing for that debate have not been followed by its author, ARRL, who insists on its original proposal of 2.8 KHz band width *anywhere* in the HF CW/DATA segments, without any separation between ACDS and peer to peer human operations. ARRL has not responded to the concerns or suggestions of dissenting comments by debating why "by band segment" is better, and their original 2.8 KHz everywhere will not "mitigate congestion" and therefore fails the test of the 16-239 instructions. **The ARRL 2.8 KHz proposal also fails to conform to IARU treaty obligations because it does not limit automatic operations to certain band segments, and allows excessive band width outside those segments.** The FCC should proceed immediately to reject the ARRL proposal and implement the alternative method of "by band segment" stated in the FCC instructions. The ARRL will then be in the awkward position of arguing against its own original HF band plan proposal, if it objects to this solution.
www.arrl.org/files/file/About%20ARRL/Committee%20Reports/2015/January/SUMNER%20QS4.pdf

3. We can all agree that emergency communications are necessary and desirable. Many comments from the emergency communication operators in the past have incorrectly framed the debate to style those who oppose 16-239 as being opposed to emergency communications, a clear purpose of amateur radio in rule 97.1 Proper FCC regulatory action will protect the legitimate emergency communications from "congestion" of the spectrum and the email systems by non emergency commercial email users.

4. The comments listed in the opening are one of the bases for the multiple comments objecting to 16-239: How do we dissect the genuine legitimate emergency communications from the inappropriate commercial use? How does Winlink leadership feel about misuse of amateur spectrum and their email system, and do they have any practical solutions?

5. This final point will be the focus of this comment. Eliminating commercial activity from the amateur spectrum is a more permanent solution to the problems presented by implementing 16-239 in any of its forms, but that would imply abolishing all non emergency third party traffic. **Some countries do not allow non emergency third party traffic, and it may now be appropriate for the FCC to study this option before proceeding with any form of 16-239, if the operators of these systems cannot get the abuse under control. Certainly, suspending this activity for all but registered RACES and ARES members until such time that proper authentication can be demonstrated is a necessary step.** The existing implementation does not "authenticate" for unlicensed operation or inappropriate content, and it is not possible for independent monitoring by anyone in the amateur

service outside the Winlink system, or any other amateur radio networks. If the FCC chooses to subsidize free email for blue water sailors, it should give more HF channels in the commercial spectrum to Sailmail free of charge to allow more connect time or promote better satellite internet service for under served populations.

97.113   Prohibited transmissions.
(a) No amateur station shall transmit:
(3) Communications in which the station licensee or control operator has a pecuniary interest (*like the prize in a yacht race, buying boat parts or hiring repairs, or other business travel arrangements*)
(5) Communications, on a regular basis, which could reasonably be furnished alternatively through other radio services *(like Sailmail)*
(b) An amateur station shall not engage in any form of broadcasting (*such as a blog or Facebook post, for distribution to the general public, which may also be a revenue source through Patreon, etc.*)

One possible solution to provide objective outside monitoring of content is proposed in this Petition for Rule Making: https://ecfsapi.fcc.gov/file/100918881206/PETITION%20FOR%20RULEMAKING.pdf

B. EVIDENCE

1. Unlicensed operation for free HF email is a problem. The first six listed comments are from foreign nationals desiring to use US based HF email store and forward systems for their yachts. No call signs are included, similar to the numerous early filings in RM-11708, also with no call signs. The problem of unlicensed yacht owners using various HF radio systems was recently highlighted in the Golden Globe Race. I applaud their publicly stating their opposition to this common practice. Please note that the competing yacht skippers reported a violation of *race rules* concerning custom individual weather reports with routing suggestions to give optimum speed, which is what triggered the investigation. Here is the full article about this incident presented as an example. https://www.sailingscuttlebutt.com/2019/01/21/maintaining-information-barrier/

"The skippers have been using this free communication system to gain weather forecasts and maintain contact with their teams, which is allowed under the Race Rules. However, it is the responsibility of each skipper to ensure that they abide by National and International regulations which Jean-Luc Van Den Heede (above) and Mark Slats, in first and second in the race, have not been doing.

Said the warning, "<u>You use an amateur callsign and are making connections with amateur radio operators.</u> The call sign letters are not registered, and thus illegal. I ask you to stop. If you have a legal amateur callsign then I urge you to present it."

In Britain, the Amateur Radio net is controlled by OFCOM, which recently revoked more than 500 licenses for non-compliance. This includes communicating with unregistered radio operators. The maximum penalty is 6 months in prison, a £5,000 fine and loss of their license."

You also have the example in the FCC comment data base on 16-239, which has been cited frequently by commenters: https://ecfsapi.fcc.gov/file/7521315143.pdf

2. Inability to display the content of all amateur transmissions creates a situation that encourages the misuse of amateur spectrum. Without a monitoring system independent of Winlink sysops, which only retains content for about 3 weeks, there is no assurance that objective regulation

will take place. Protection of their "clients" can take precedence over reporting rules violations. The comment by Kenton Van lue https://www.fcc.gov/ecfs/filing/1222718116209 makes the case for clear independent auditing of these Winlink systems. I would state that the FCC or anyone else in the amateur service has a "need to know" to prevent illegal content from becoming the norm. "I have listened to many winlink transmissions of e-mail traffic, and the headers of who is talking and who is receiving are clearly indicated. True, I don't know what is being said unless it was directed to me, but I do not need to know." On the contrary, with 16-239 rule making, it very much IS our business now, and the arrogant "need to know" statement is adequate demonstration that the FCC should immediately make it their business as well.

C. WINLINK'S OWN OPINION AND PROBLEMS

1. I present here, without comment, Winlink leadership internal communications involving Seven Seas Cruising Association (SSCA) Dave Skolnick and unlicensed (pirated call sign) operation and abuse of amateur spectrum. Please note that they are discussing this as a PR problem, not a rules violation problem. **I suggest to the FCC that it now makes it clear that this is not a PR problem, its an enforcement action, before it expands the use any further through 16-239.** **Also, suspend the use of this system until such time as actual compliance measures can be demonstrated.** If Winlink cannot effectively control its own system, how does the FCC expect that other private networks set up using SCSmail will be enabled or motivated to do so?
SCSmail program information at page 53, English version, SCS Pactor 4 modem manual:
http://www.p4dragon.com/download/InstallationGuide_DR-7X00.pdf
"2.1 SCSmail
SCSmail has been developed to enable users of SCS PACTOR modems to easily establish an
own email system without additional costs. SCSmail is freeware and will be distributed via the
SCS CD and the SCS website."

I draw your attention to the Winlink (Lor Kutchins) statements contained in the clips below, in particular:

We are able to automate license checks using online resources for US, German, Czech, Canadian and a few other countries to catch abuse. Administrators and RMS Sysops also are asked to scan the traffic and do manual checks to find pirates. Then we can lock them out of the system, or work with them if safety is a problem. **The sad fact is that our filter has large holes and a pirate can sometimes get away with abusing the system for weeks before their caught.**

"-------- Forwarded Message --------
  Subject: [winlink-programs-group] Re: Weather products for cruisers
    Date: Fri, 11 May 2018 06:18:25 -0700 (PDT)
   From: Lor W3QA <lor.kutchins@gmail.com>
Reply-To: winlink-programs-group@googlegroups.com
    To: Winlink Programs Group <winlink-programs-group@googlegroups.com>

Hi Dave,

Good discussion. Personally, I prefer to liberate the radio, modem and computer from the slavish task of meeting broadcast

schedules to receive WFAX. I like to use a Furuno FAX-30 or FAX-408. I have spent many hours capturing partial and noisy graphics and come away frustrated too often before I made the modest investment. Multitasking a general-purpose computer and dedicating my comm radio to waiting for and receiving a FAX broadcast is too often inconvenient, and a hassle for me at sea. I like to set the FAX gear to do it's job, and forget it. Then fresh info is available after that on my schedule. Filling-in with a Winlink Catalog download is also not a burden, and always produces clean images. RMS airtime limits can be changed by asking a sysop, and it's not been a problem, ever. Everyone has his preferences and so it shall be. Even down to which Winlink client they use. I disagree with you about Airmail being the best, because I find it clumsy in what way it handles frequency list updates, catalog updates and more. I keep both clients on my computer, frankly, so my toolkit is not limited.

As you know I am also a sailor/cruiser with many miles under my keel. As President of ARSFI and a member of the team that develops and runs Winlink, I want to present a problem and ask that you, with your connections to the Seven Seas Cruising Association and the yachting community, give it some thought and help us mitigate it. This is callsign piracy and abusive use of Winlink by the maritime community. It is the biggest and most embarrassing PR problem we have. During FCC proposed actions the public comments are filled with licensed hams complaining about the abusive users of Winlink. Of course, the conclusion they lean to is to ban Winlink from the amateur bands because of it.

It happens frequently, multiple times per week. Earlier this week we caught SV Discoverer, captain Melissa Fleming, and the team of "The Longest Swim", using K9LKM and M0PGP while unlicensed. They also had various satellite services onboard yet their main channel for communications was to abuse Winlink on the ham bands. The problem runs across the economic spectrum among cruisers. Cruisers on a shoestring and big, organized and well-publicized events like this one abuse the system by operating illegally on a regular basis. (Thelongestswin.com describes this operation. The trans-pacific swim for science by Ben Lecomte. He was the guy who swam the Atlantic recently).

We are able to automate license checks using online resources for US, German, Czech, Canadian and a few other countries to catch abuse. Administrators and RMS Sysops also are asked to scan the traffic and do manual checks to find pirates. Then we can lock them out of the system, or work with them if safety is a problem. The sad fact is that our filter has large holes and a pirate can sometimes get away with abusing the system for weeks before their caught.

Sadly, abuse like this is rare with non-maritime users, and that's a fact.

Over the years, we've come to the conclusion that promoting Winlink to the non-ham cruising community is a bad thing. It's fine for already-licensed hams who like to cruise. They seem to 'get it' about the amateur radio culture, self-policing, listen-before-transmit, etc. We observe that cruisers who grab a license to use Winlink on a voyage, or worse, learn that they can get away (at east for a while) without a license, don't respect the rules and culture we operate under. It's a major job to try to maintain a 'clean' system. And it is a major PR problem for the Winlink system among other hams. This has been a large deterrent to the FCC passing needed modernizations or Part 97.

Can you de-emphasize your Winlink promotions among non-ham sailors and cruisers? Perhaps you could add this angle into your SSCA tutorials and teachings?

We are not too enthusiastic about the maritime community in general because of this. What can you do to help?

73,
Lor W3QA
Winlink Development Team

-------- Forwarded Message --------
  Subject: [winlink-programs-group] Re: Weather products for cruisers
     Date: Fri, 11 May 2018 15:07:28 -0700 (PDT)
    From: Dave Skolnick KO4MI <dskolnick@gmail.com>
Reply-To: winlink-programs-group@googlegroups.com
   To: Winlink Programs Group <winlink-programs-group@googlegroups.com>

Hi Lor!

I'm going to run through your points below. At the high level I want to be very clear. Call sign pirating is not okay. I tell my audiences at every opportunity that there is nothing, aside from some minor regulatory information, that one must know to pass the Tech and General exams that a self sufficient cruiser should not know anyway. I founded the SSCA VE Team, the only exam team with no fixed address to make testing easy. I'm working on a webinar series to teach the *material* and not the Q&A.

I also recognize that my call in particular is well known and so subject to pirating. *sigh* If you or any sysop sees my call in logs I will never be offended at a note to make sure it is me.

On to the meat of the matter.

On Friday, May 11, 2018 at 9:18:25 AM UTC-4, Lor W3QA wrote:

> Good discussion. Personally, I prefer to liberate the radio, modem and computer from the slavish task of meeting broadcast schedules to receive WFAX. I like to use a Furuno FAX-30 or FAX-408.

The biggest issue I have is the availability and robustness of thermal paper. One of the reasons I like using a Pactor modem is that hardware demodulators (like in the SCS products and Furuno dedicated fax receivers) still outperform sound cards and software. Side-by-side a hardware solution and a sound card make that clear. Sound cards are good enough but not the best.

> I have spent many hours capturing partial and noisy graphics and come away frustrated too often before I made the modest investment. Multitasking a general-purpose computer and dedicating my comm radio to waiting for and receiving a FAX broadcast is too often inconvenient, and a hassle for me at sea.

I hear you. My routine is to collect weather fax over night. Crew read yesterday's incoming email and write tomorrow's outgoing as they have time and are awake. In the morning during grayline I send/receive email and review weather fax that came in overnight. After/over breakfast I share weather and let people know who has email waiting. I leave the radio running for weather during the day cycle although nights seem to be generally better.

> Everyone has his preferences and so it shall be. Even down to which Winlink client they use. I disagree with you about Airmail being the best, because I find it clumsy in what way it handles frequency list updates, catalog updates and more. I keep both clients on my computer, frankly, so my toolkit is not limited.

I agree that Airmail frequency updates are clunky. I should not have to cut and paste. I don't have to cut and paste for Sailmail updates so somewhere Winlink and Airmail parted ways on updates.

You may recall I have pushed to include weather fax and Navtex as native capabilities in Winlink Express. Further as long as Airmail supports and is supported by other services and Winlink Express is not so supported there is an edge. As you say, that is preference and opinion.

> As you know I am also a sailor/cruiser with many miles under my keel.

I do know. I often point out that not only you but most of the WDT come from a cruising background.

While EMCOMM dominates the discussion today, many are not aware that the roots of Winlink are in the cruising community. Were it not for cruising sailors including Rick and Vic and people ashore like Steve Winlink would not exist. I am a big advocate of Winlink and ARSFI. You know that I am responsible for recognition of WL2K including the Southbound II award for Vic Poor and previous awards to the WDT.

That makes me think of something else I can do to support you which I will take offline.

I should point out that when I tell my wife I have an idea she often responds by saying "Wait. I need to sit down and have a drink." *grin* So sit down and get yourself settled and I'll send you an email after I finish posting this.

> As President of ARSFI and a member of the team that develops and runs Winlink, I want to present a problem and ask that you, with your connections to the Seven Seas Cruising Association and the yachting community, give it some thought and help us mitigate it.

Shoot. I have no response suitable for public discourse. Just not okay. The willingness of people to abuse trust and charity makes my mind reel.

I will address this immediately. I am not King of the Cruisers, far from it. I can't fix it by myself. I can use my small pulpit to raise awareness. I will keep you in the loop. I'll copy you on email and send you a note about other efforts, including making a specific point (I already talk about licensure) of pirating. I can draw a direct parallel to other acts of piracy.

Please also keep me in the loop when issues pop on your radar screen. I find such activities truly offensive. I can only act when I have information.

> Can you de-emphasize your Winlink promotions among non-ham sailors and cruisers? Perhaps you could add this angle into your SSCA tutorials and teachings?

I will go through my material. I spend much more time on the value of learning the material and getting a license than I do on Winlink. I'm going to be offshore for a bit (on and off through early July) and I'd like to spend available time bringing piracy to the attention of other influential cruisers. I'll bundle up my material and make it accessible to you, together with my bright idea (above *grin*), and will be open to your thoughts and input. Of course the slides don't give complete insight into the emphasis of my presentations. I'll also try to sell something to the national magazines. Who knows it might work although finger wagging often doesn't sell. I will try.

> We are not too enthusiastic about the maritime community in general because of this. What can you do to help?

Whatever I can. I am deeply offended by piracy at any level. More to follow offline.

Please do not suffer in silence. This is not okay.

73 es sail fast de dave KO4MI
Dave Skolnick S/V Auspicious

AuspiciousWorks.com
past president Seven Seas Cruising Association

-------- Forwarded Message --------
  Subject: [winlink-programs-group] Re: Weather products for cruisers
    Date: Sat, 12 May 2018 05:37:45 -0700 (PDT)
   From: Lor W3QA <lor.kutchins@gmail.com>
Reply-To: winlink-programs-group@googlegroups.com
    To: Winlink Programs Group <winlink-programs-group@googlegroups.com>

Dave,

Thanks for any shaking the tree. The entire amateur community (especially Winlink sysops and users) should step up their vigilance and activity to self-police their environment and spectrum. Let's keep the pirates and unlicensed operators in check. Let's educate those who abuse ham culture and good operating practices.

I recall several times during a cruising interlude when I was in a social setting with other cruisers in some far off port, and listened to another skipper brag about his radio email setup. When asked about his callsign, I heard more than once a reply like "anything that works" with a smile and a wink. I used to just listen. That was wrong. I fear too many are as laidback now about it as I was then.

Again, thanks for your activism.

--Lor"

This recent information was captured during the 16-239 process dated 2018. This is a clear failure to 97.219: "Authenticate the identity" and 97.105: "ensure the immediate proper operation of the station, regardless of the type of control." *Winlink can only monitor these transmissions after the fact,* and reprimand the offender, if they happen to have time to read all the outgoing messages, an unlikely occurrence in such an automated system. This was a failure to authenticate in the RF port of the Winlink email system. The failure in the case of the internet port, from automated internet email coming into the system is worse, since these users are not licensed amateurs and cannot be expected to know or follow FCC part 97 rules on content or valid third party country destinations of traffic. **The evidence presented above is "good cause" to suspend or summarily dismiss all 16-239 deliberations and begin an enforcement action, which MUST be satisfied on all points by the operators of these systems before it proceeds on 16-239 in any form.** Please note that it is NOT an "excessive burden" to require written proof of a valid license *before* any access is granted to this system; trying to catch it after the fact, a matter of weeks by their own admission, is not adequate to satisfy "immediate proper operation". I am making this a "show cause why" letter request to the FCC.

D. CONCLUSIONS

The expanded use of even narrow band ACDS outside an FCC allocated segment is rife with enforcement problems. This will become evident as ARDOP use is adopted in the 97.221 (c) spectrum. See: http://www.ybw.com/forums/showthread.php?496951-Ardop-Vara-in-Winlink-Express-(email-by-radio) " No more expensive sat airtime. Looks very interesting, even with winlink gribs were not a problem to download, just took a little while." **Please prevent commercial comment in the amateur spectrum. Please do not conflate legitimate emergency operations with this commercial use.**

Please give adequate weight to the recent thoughtful comments of people like this:
https://www.fcc.gov/ecfs/filing/1215020677671
Robert Rennard
The initial objective of these proposals was to allow innovation on the amateur bands in a reasonably allocated bandwidth. Removing the proposed 2.8 KHz limit has lead to grave concern about what will happen to the amateur bands as we know them. Many of filers who propose adopting 16-239 are NOT members of the current amateur community, but will likely enter amateur radio with a no-code license so they can take advantage of automated services that neither the FCC or the amateur radio community has the capacity to monitor to determine if any section of Part 97 is violated. Expanding this type of usage is NOT the original intent of the ARRL proposal and accordingly, 16-239 should be rejected.

Please adopt a moratorium on HF email operations and suspend or summarily dismiss 16-239 until all systems using the amateur spectrum can demonstrate effective Part 97 rule compliance. Please revoke licenses of those communicating with unlicensed operators in the amateur spectrum without further delay.

Please adopt the Petition to require display of content of all messages and deletion of 97.221 (c) to confine this unattended activity to the 97.221 (b) segments, and implement 16-239 "by band segment" instead of unlimited band width anywhere in the DATA segments of the HF bands.
https://ecfsapi.fcc.gov/file/100918881206/PETITION%20FOR%20RULEMAKING.pdf
Please maintain FCC policy of freely displaying all content of amateur transmissions.
http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0918/DA-13-1918A1.pdf
"The primary protection against exploitation of the amateur service and the enforcement mechanism in the amateur service is its self-regulating character"... "To ensure that the amateur service remains a non-commercial service and self-regulates, amateur stations must be capable of understanding the communications of other amateur stations."
Footnote 19: "We note that a hallmark of enforcement in the amateur service is "self-policing," which depends on an amateur station hearing a message being able to determine whether message violate the amateur service rules. See, e.g., Waiver of Sections 97.80(b) and 97.114(b)(4) of the Amateur Rules to Permit the Retransmission of Third-Party Traffic in Certain Situations, Order, PR Docket No. 85-105, 59 Rad. Reg. (P & F) 1326, 1326 ¶ 2 (PRB 1986).

Sincerely and respectfully,
/S/
Janis Carson, AB2RA, licensed since 1959, ARRL member 40 years
Please incorporate by reference these comments in this reply:
https://ecfsapi.fcc.gov/file/1012251185288/FCC%20PS%20DOCKET%202017-344.pdf
https://ecfsapi.fcc.gov/file/1022189744573/FINAL%20PSHSB%202017-344.pdf
https://www.fcc.gov/ecfs/filing/120762254440
https://ecfsapi.fcc.gov/file/10100754910405/MATTHEW%20PITTS%20REBUTTAL1