

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

In the Matter of	)	Potential Omnibus rule makings
	)	NPRM 16-239
Amendment of Part 97 of the Commission's	)	RM-11708
Amateur Radio Service Rules to Permit Greater	)	RM-11759
Flexibility in Data Communications	)	RM-11831
	)	RM-11828
	)	September 24, 2019

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

**OPPOSITION REPLY COMMENT TO ARRL/SIDDALL EX PARTE 9/17/19**

Janis Carson, AB2RA, long term ARRL member, Extra class licensee, pursuant to Section 1.405 of the Commission's Rules (47 C.F.R. §1.405), hereby respectfully request consideration of this Ex Parte notice and reply comments to 9/17/19 ARRL Ex Parte, via their representative, Dave Siddall FCC ID: 1091828798020.

[https://ecfsapi.fcc.gov/file/1091828798020/ARRL%20FCC%20Docket%2016-239%2009\\_17\\_2019.pdf](https://ecfsapi.fcc.gov/file/1091828798020/ARRL%20FCC%20Docket%2016-239%2009_17_2019.pdf)

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**A. PUBLIC NOTICE, ADMINISTRATIVE PROCEDURES ACT IS SATISFIED BY THE FCC**

1. I wish to point out that I was present at the ARRL meeting to negotiate an agreement regarding 16-239, referenced by Dave Siddall in his Final Report:

[https://ecfsapi.fcc.gov/file/107150047500607/ARRL%20FCC%2016-239%20Final%20Report%2007\\_15\\_2019.pdf](https://ecfsapi.fcc.gov/file/107150047500607/ARRL%20FCC%2016-239%20Final%20Report%2007_15_2019.pdf) “This negotiating meeting included: Ari Fitzgerald and John Castle, representing

New York University/Ted Rappaport, N9NB; Loring Kutchins, W3QA; Ron Kolarik, K0IDT; Tom Lafleur, KA6IQA; Janis Carson, AB2RA; Ross Merlin, WA2WDT; Dan White, W5DNT and Mike Marcus, N3JMM.”

2. This is my own independent filing to follow up on issues contained in the ARRL 9/17/19 filing in which they say “have merit and should be considered”, in section “III. Matters Raised by Commenters Outside the Scope of This Proceeding May Have Merit for Consideration in a Further Notice.”

3. For the record, the FCC, not the ARRL, determines the scope of any proceeding. The FCC appears to have expanded that scope by granting a timely rule making number to RM-11831. These rule making proceedings should be not be done as isolated groups of discordant separate jig saw puzzle pieces, which will never fit and work properly.

4. Spectrum management issues such as setting bandwidths inside and outside the ACDS segments specified in Part 97.221(b) and (c) is definitely within the scope, as stated in the FCC filing instructions for NPRM 16-239. Furthermore, the relocation of those ACDS sub bands to conform to IARU band plans is allowed, since they ARE the generally applicable standards, throughout the world. **Attempts to unbundle these essential considerations from repealing the 300 baud limit will have highly undesirable consequences due to the world wide propagation characteristics of HF.**

**FCC FILING INSTRUCTIONS IN NPRM 16-239:**

“12. While we tentatively conclude that a specific bandwidth limitation for RTTY and data emissions in the MF/HF bands is not necessary, we nonetheless request comment on whether we should establish emission bandwidth standards for amateur service MF/HF RTTY and data emissions. Commenters favoring such action should address what the maximum bandwidth should be, the basis for the particular limitation the commenter proposes, and **whether the limit should apply across the bands or only in particular subbands**. Commenters should explain the grounds for departing from the generally applicable standards.”

5. The ARRL states at the end of the filing in “F. Conclusion”:

The long-outdated symbol rate limits prevent use of some newer digital modes and should be replaced as soon as possible by a 2.8 kHz bandwidth limit below 29.7 MHz. The League also strongly supports expansion of the HF ACDS subbands, especially if more signals are added. Such changes and related issues are being considered by the League’s HF Band

Planning Committee and these issues should be considered for inclusion in a Further Notice.

The ARRL should have done the spectrum planning in the RM-11708 petition FIRST, not as a patch after the fact. The deliberations of the HF Band Planning Committee may take some time and should be summarized in a new petition for rule making; NPRM 16-239 as written should be DENIED.

On page 10 of its filing, ARRL states:  
The League Board of Directors, meeting just days after conclusion of the multi-party discussions described above, lacked the time necessary to methodically consider what subband boundary changes may be needed to accommodate these proposed changes. Inasmuch as changes to the current ACDS subband boundaries had not been proposed or addressed by the League in its Petition, nor by the Commission in the subject NPRM, the public notice and comment required by the Administrative Procedure Act has not occurred. Accordingly, it was concluded that the League and others have time to formulate subband proposals before comments would be due in any subsequent proceeding.

6. It is irrelevant and immaterial that the ARRL did not include spectrum issues in its filings with the ACDS sub band size, boundaries, location, and band width outside the ACDS in its petition. It certainly knew about it some time before, and did publish a band plan in its QST magazine:

<http://www.arrl.org/files/file/About%20ARRL/Committee%20Reports/2015/January/SUMNER%20QS4.pdf>

Many subsequent commenters included separation of ACDS from peer to peer, and the FCC clearly DID include it by the phrase: “**whether the limit should apply across the bands or only in particular subbands.**” The public notice and comment therefore has occurred, with scores of filers stating in RM-11708 and NPRM 16-239 they favored a separation of automatic and peer to peer communications, with approximately 100 KHz at the lowest frequency sub band in each major amateur HF band, and an ACDS sub band above that, followed by a VOICE/IMAGE segment above that. By separating human control operator attended operations from automatic digital operations in the HF bands, it “mitigates” the interference and “assigned channels” problems inherent with commingling ACDS operations as currently conducted. If the FCC creates a band width limit (2.8 KHz) *inside* the ACDS segment as ARRL requested, there is legitimate justification to impose a similar band width

specification (500Hz) *outside* the ACDS segment, in the RTTY/DATA segment. An FCC letter went out regarding deletion of 97.221(c) and 300 baud revision back on April 3, 2007:

<https://www.fcc.gov/ecfs/filing/5514262606>

Over 800 comments were received and many of them expressed the same concern about interference from automatically controlled digital stations that you express in your Petition.

RM-11306 was WITHDRAWN by the ARRL, with the issue unresolved. **How much time does it take to conclude that automatic (ACDS) and peer to peer operations are fundamentally incompatible?**

The FCC has prudently recognized those comments, and deliberately included the phrase “whether the limit should apply across the bands or only in particular subbands” for that very reason. The ARRL has persistently insisted on its original “winner take all” approach of wide band emissions everywhere in the HF RTTY/DATA/CW sub band. This was established in our previous filing:

<https://ecfsapi.fcc.gov/file/10719969503992/FINAL%20VERSION%20Siddall%20reply%20June%202018.pdf>

7. The ARRL has had 3 years since NPRM 16-239 began (7/28/16), 6 years since RM-11708 (11/21/13), and thirteen years since RM-11306 (2/24/06) to reconsider its “winner take all” spectrum management, when a well designed petition would have succeeded which fairly represented ALL users of the amateur HF spectrum, while still revising the obsolete 300 baud limit.

8. The current ARRL Board of Directors clearly voted to change course in response to negotiations and FCC filings. But the 9/17/19 ARRL filing relegates these essential sub band planning issues and segregation of peer to peer from ACDS operations to “not in the scope”. The clear position of the ARRL Board of Directors states:

Page 17: <http://www.arrl.org/files/file/2019%20Board%20of%20Directors/Final%20Minutes%20July%202019.pdf>

“IT IS ACCORDINGLY RESOLVED that the ARRL’s Washington Counsel is instructed to take appropriate steps, including, but not limited to, appropriate filings with the Federal Communications Commission, to obtain the Commission’s approval for the following enumerated changes to Part 97 of the Commission’s Rules:

**(1) All automatically controlled digital stations (ACDS) below 30 MHz, regardless of**

**bandwidth, are authorized to operate only within the ACDS bands designated in the FCC's Rules, 47 C.F.R. §97.221(b);**  
**(2) All digital mode stations that operate with a bandwidth greater than 500 Hz also must operate within the ACDS bands designated in the FCC's Rules, whether or not automatically controlled;**  
**(3) No digital mode station may employ a bandwidth greater than 2.8 kHz in any band below 29 MHz;**

9. The ARRL Ex Parte of 9/17/19 is beyond the FINAL extension granted by the FCC, and is therefore **NOT TIMELY FILED**. This late offer for a FNPRM (Further Notice of Proposed Rule Making) should be DENIED, and 16-239 should be DENIED. The ARRL should generate a new petition which fulfills the BOD instructions, and can revise the 300 baud limit, while considering the undesirable impacts of inadequate spectrum planning, in any time frame they find convenient.

10. RM-11759 is a component of the required “right sizing” of the ACDS segments, and alignment with IARU band plans, which ARRL has failed to do. If the ARRL decides to petition for another version of RM-11708 and NPRM 16-239, 80 meters should be part of the overall HF band planning process. It is not desirable to do this as a piecemeal process of badly coordinated rule makings. Traditionally, the FCC has issued Omnibus Report and Orders. It should do so in this instance, to obtain a comprehensive solution. **Please DENY RM-11759 also, so that a comprehensive solution can be obtained, where all the pieces of the jig saw puzzle fit properly.**

## **B. CROSS FILED MATTERS “HAVE MERIT FOR CONSIDERATION” IMMEDIATELY**

1. Commenters have correctly identified a number of issues which have come to light as a result of discussion in FCC filings that related directly to the ACDS operations that are the direct beneficiaries of RM-11708 and NPRM 16-239. The line of reasoning presented above in section A of this document is equally valid regarding these issues. They are the direct result of “public comment” and the FCC's recognition of those comments, as well as the Kolarik petition, RM-11831, which is designed to address those issues constructively. Had it not been for Ron Kolarik's RM-11831, RM-11708 and

NPRM 16-239 might have proceeded, with substantial damage to the amateur service resulting. These are issues which ARRL admits “have merit and should be considered”. **IF NOT NOW, WHEN?**

### **C. A REGULATORY MATTER, NOT AN “ENFORCEMENT ISSUE”**

1. The ARRL attempts to minimize the importance of the hard data presented to the FCC in Enforcement Bureau Ticket # 3184322. ARRL states on page 18: “Only after reviewing the validity of complaints would the Commission be in a position to assess whether there is a basis for considering changes to its Rules.” To ensure the FCC and the public was finally aware of what had been going on for 20 years, we included a heavily redacted version of that data in an FCC comment. This data was collected from the “Winlink Viewer”, their own data base. See the final appendix at:

<https://ecfsapi.fcc.gov/file/10718632326911/July%2018%2C%202019%20Ex%20Parte%20Filing.pdf>

It was stunning confirmation of what we saw in other FCC comments:

<https://ecfsapi.fcc.gov/file/7521315143.pdf>

“To: FCC – RM-11708 The sailing forms are all encouraging us to file comments in support of RM-11708. This is my first filing and if I mess this up, please see SailNet Forum at:

<http://www.sailnet.com/forums/general-discussion-sailing-related/111746-us-citizens-urged-support-fcc-rm-11708-a.html>

I have experienced very dependable service from the amateur radio Internet Winlink system. Its a great service because all of the other available Internet services cost money. Even when I am topside cruising the system runs automatically below deck publishing my position reports and downloading my email. I use the system for sending position reports, ordering supplies, repairs, chatting with friends and posting to facebook. My only complaint is that it needs to be much faster. I am not a amateur radio operator yet but a friend lets me use his call with a SIDD on the end. I hope to get my own ham call soon. From what I read on the sailing forums, RM-11708 will allow Winlink eMail to

run twice as fast. That is great and I am for that. Some of the technical folks are saying that if RM-11708 is published with no bandwidth we can get even faster Internet and might be able to stream movies on the Winlink Internet. I'm for passing RM-11708 into law with no bandwidth limits." -

Randal Evans

A licensed amateur operator even loaned his call sign and Winlink account. If you visit the sailing forum in the Evans comment, you will find "A sample statement of support", provided by Phil Sherrod W4PHS Winlink officer, advocating for passage of RM-11708. KO4MI, Dave Skolnick, Seven Seas Cruising Association Board of Directors, includes instructions on how to file in RM-11708.

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 or satellite services)

(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.)

This misuse of amateur radio may eventually transition to satellite. The hasty transformation of the amateur service into a commercial carriage email system is not wise.

<http://www.globalmarinenet.com/hf-radio-and-pactor-modems-vs-satellite-phones-for-email-at-sea/>

Part 97.115(b)(1) "The control operator is present at the control point and is continuously monitoring and supervising the third party's participation." Winlink does not "authenticate" or provide immediate disconnection of shore based unlicensed internet users who may not know FCC rules about content. Part 97.219(d)(1).

97.105: ensure the immediate proper operation of the station, regardless of the type of control

Winlink permanently occupies a channel for email connections in violation of: 97.101(b): "No frequency will be assigned for the exclusive use of any station." and is incompatible with other peer to peer operations in the HF amateur bands.

Ordering boat parts, posting to a blog, or Facebook has absolutely nothing to do with emergency communications, nor does free email advance the state of the radio art or qualify as legitimate non commercial non pecuniary activity enumerated by Part 97.1. To assert that it does is patently disingenuous. That it has been tolerated by the ARRL and FCC or practiced widely by even unlicensed persons who are not properly authenticated by the gateways to the Winlink system does not justify its continuation. Widespread long term violation of law does not logically support abolishment of law; rather it demands vigorous enforcement and effective regulation.

This news article demonstrates that these cases are common;

<https://www.sailingscuttlebutt.com/2019/01/21/maintaining-information-barrier/>

Their concern was race rules, not telecommunications rules.

2. While highlighting the need for enforcement by various government agencies, including the FCC, the fundamental principal for amateur radio is that it is self-enforcing due to the following FCC statement:

QUOTED FROM DA 13-1918:

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).

[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2013/db0918/DA-13-1918A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0918/DA-13-1918A1.pdf)

**IMPORTANT CONCLUSION: All of this evidence demonstrates that the LACK of the ABILITY TO ADEQUATELY MONITOR AND DISPLAY ALL CONTENT has enabled this to occur over the course of 20 years. It also demonstrates the need to clarify various FCC rules and update them, BEFORE RM-11708 and NPRM 16-239 is enacted.**



#### **D. THANKS TO RECENT TECHNICAL WORK, AN OTA DECODER MAY SOON EXIST**

Unverified recent FCC filings suggest that John S. Huggins as well as Gordon L. Gibby may have developed proof of concept demonstrations of prototype Over The Air (OTA) decoders using an SCS Pactor Dragon 7000 series modem. This was apparently done with the assistance of Hans-Peter Helfert, the actual SCS designer of that modem. Hans-Peter Helfert even offered to develop a suitable decoder which does not require the purchase of a modem, in one of his filings:

[https://ecfsapi.fcc.gov/file/10417301289214/SCS\\_FCC\\_Comment\\_RM11831.pdf](https://ecfsapi.fcc.gov/file/10417301289214/SCS_FCC_Comment_RM11831.pdf)

“Nevertheless, SCS is willing to develop and provide a free PACTOR monitoring tool as a contribution to “mutual understanding” in the spirit of AR. This would be a software solution under the operating systems Linux and / or Windows. The tool would not require any special hardware. However, such a development would require considerable effort for SCS, as our modems are powered by specialized signal processors. Porting the software to common Intel and ARM processors will be correspondingly expensive. Nonetheless, we are willing to provide such a comprehensive, free monitoring tool. It would integrate with the Volunteer Monitor Program now being organized by the ARRL.”

“We propose the following be adopted as requirements for a (new) digital method:

1. Description of its fundamental characteristics (ITU emission designator)
2. Description of the channel and source coding
3. Availability of an easily accessible monitoring mode

We see this as more than adequate for the required "transparency””

It appears that a complex diversity receiver system might improve decode performance and overcome propagation fading and static on long distance signals, but with a single receiver, it may not be sufficiently error free. How this comes into play in regulations has yet to be determined.

I would like to take this opportunity to thank all of them, as well as other contributors for their work. I refrain from lengthy hexadecimal print outs and research on obscure compression techniques and note this lengthy complicated work was not a simple exercise anyone could have done. Current understanding of this matters most, and retractions and apologies are unproductive.

I would also like to thank Lor Kutchins of ARSFI for his constructive participation in negotiations and the offer of the “Winlink Viewer” as a tool to reduce the objectionable content in emails from certain portions of the user base. Kutchins' correctly observed that the yacht based users

(not the Emergency Communications) were the primary source of Winlink system headaches.

Gordon L. Gibby presented analysis of the volume of Winlink reported problems in recent times. That data, while helpful, was limited by inability to view the Winlink data base prior to the installation of the Winlink Viewer. Lor Kutchins and other Winlink people apparently revised the Winlink Terms Of Service (TOS) to higher standards than the current so called “Pizza Rule” the ARRL negotiated with the FCC. **It now appears that the “Pizza Rule” needs to be clarified in Part 97 rules to conform to the new Winlink TOS, to ensure that matters do not get out of hand again.**

The ARRL states: “To the extent that self-enforcement relies upon being able to read the content of digital transmissions, it appears that appropriate rules are in place to accomplish that objective.” RM-11831 and the evidence presented in EB ticket # 3184322 seems to make a different case, and the lack of such decoders until recently demonstrates that current Part 97 rules need clarification of 97.113(a)(4), possibly a blend of those suggested by Hans-Peter Helfert above and Ron Kolarik in RM-11831. Inclusion of the Helfert style monitor offered in any FCC R & O would seem to be appropriate for all techniques similar in function.

It is important to note that none of this discussion would be occurring had it not been for RM-11831. I thank the FCC for its prudence to issue that rule making number quickly, so matters which “have merit for consideration” relevant to NPRM 16-239 can be discussed. There is a detailed discussion of the technical aspects of need to display of content of messages in FCC filings at:

<https://ecfsapi.fcc.gov/file/10924172492678/McVey-ExParte-16-239.pdf>

## **E. CLARIFICATION OF PART 97 IS JUSTIFIED BY THESE REVELATIONS**

It should now be clear that certain rules badly need an update. This includes, but is not limited to the following:

97.113 Prohibited transmissions.(a) No amateur station shall transmit:

(4) Music using a phone emission except as specifically provided elsewhere in this section; communications intended to facilitate a criminal act; messages encoded for the purpose of obscuring their meaning, except as otherwise provided herein; obscene or indecent words or language; or false or deceptive messages, signals or identification.

RM-11831 should be the tool to resolve this “encoding” matter.

Call sign piracy is a serious enforcement issue.

1. It becomes a “regulatory matter” when a system like Winlink offers instant accounts to unverified users, who are either unlicensed or pirating legitimate call signs. Lor has stated that these unlicensed persons can persist in the system for weeks. The system must “authenticate” all potential users by better methods, such as sending a post card to the physical address of the license of record, with an “authentication code”. The real license holder is then aware that some one is misusing his call sign, and can report it and prevent the account from operating for a spoofed call sign unlicensed person.

This is also referenced in this section:

#### 97.219 Message Forwarding System

(d) For stations participating in a message forwarding system, the control operator of the first forwarding station must:

(1) Authenticate the identity of the station from which it accepts communications on behalf of the system;

An effective authentication system should be developed and required for casual users such as yachts.

There should be a suitable exemption for verified members of SHARES, AUXCOMM, ARES, Red Cross, Salvation Army, and other NGOs, since they can be presumed to be familiar with Part 97 and conducting legitimate relief work. **This needs to codified in Part 97 rules, to ensure it does not continue once these proceedings are over. Please DENY 16-239 and update these rules.**

2. There is a serious problem of commercial carriage of undesirable content. The Enforcement Bureau ticket # 3184322 has been provided in redacted form to document the need for revising and updating the Part 97 rules to permanently prevent this from growing to the extent it had over the last 20 years. While Lor Kutchins has recently adjusted the Terms Of Service of Winlink, there is no guarantee that any of his successors will retain his policies. **The FCC needs to clarify the so called “Pizza**

**Rule” which relaxed constraints on business content at the ARRL's request. It also needs to clarify 97.113, all sections, to eliminate ambiguities which have been exploited as loopholes:**

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 or satellite services)

(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.)

3. There is potential failure to comply with the agreements that established special rules for store and forward email systems: [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-94-76A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-94-76A1.pdf)

While this particular rule was devised to regulate the VHF packet systems of the time, this rule and others have come to be interpreted as justification for the HF systems now in use. The common misuse, as documented in the reference Enforcement Bureau ticket, is “good cause” to revisit all these previous rule making procedures and update them. **Please DENY 16-239 and update these 1994 rules:**

FCC 94-76A1-pdf

PR Docket No. 93-85

Amendment of Part 97 of the  
Commission's Rules Concerning  
Message Forwarding Systems in  
the Amateur Service.

RM-7649 RM-7669

RM-7675 RM-7676

RM-7681 RM-7904

Adopted: March 30, 1994; Released: April 13, 1994

This development has resulted in thousands of amateur operators voluntarily linking their individually-licensed very-high frequency (VHF) stations together to form easily-accessible ad hoc message forwarding systems

There is no central supervisory authority in an ad hoc amateur service digital network. The vulnerability of an unsupervised system can make it an easy target for misuse by uncooperative operators and non-licensees. It can be difficult, moreover, to establish after the fact that a particular VHF station originated a fleeting high speed digital transmission. For these reasons, there must be on-going oversight of the system. The control operators of the first forwarding stations are in the best position to provide such oversight.

The role of a Control Operator has become unclear in these modern HF email store and forward

systems. One way to improve this situation is to require in Part 97, and enforce the practice, that any email originating from the internet (from unlicensed users) is to be placed first in a BUFFER FILE which must be reviewed by a “vigilant control operator” BEFORE TRANSMISSION over the Winlink RF system. My question to the FCC is this: If the Enforcement Bureau were to send a warning letter to someone responsible for content, WHO WOULD THEY SEND IT TO? (An exemption for RACES, ARES, and NGOs doing relief work could allow faster transit for them.)

4. Please revise and update 97.7, 97.105, 97.109, 97.113, 97.115, 97.219, 97.221, and 97.307(14) [to clarify whether ACDS is allowed in the 60 meter band], and 97.309 to eliminate the ambiguities that have been exposed in RM-11708, NPRM 16-239, and RM-11831.

In the instance of internet source email flowing into an HF email store and forward system, once a “control operator” is clearly defined, they should prevent undesirable content “regardless of the type of control”, even including ACDS.

#### 97.105 Control Operator Duties

(a) The control operator must ensure the immediate proper operation of the station, regardless of the type of control.

In the instance of Winlink, the issue of purchase of non amateur related items, such as boat or engine parts, or management of a Pizza business has become common. By contrast, “Joe Ham”, the mainstream amateur operator, is told he can offer amateur related equipment or parts, but not on a “regular basis”. It is a “generally accepted standard” to only request or offer the item, but discuss all cost, shipping expense, etc, by email or telephone, not on the air. This standard should be applied to HF email store and forward systems for consistency, and to conform with community standards of amateur radio.

**There should be ONLY ONE STANDARD THAT APPLIES TO ALL AMATEUR OPERATORS.**

#### 97.113 Prohibited Transmissions

(3) Communications in which the station licensee or control operator has a pecuniary interest, including communications on behalf of an employer, with the following exceptions:

(ii) An amateur operator may notify other amateur operators of the availability for sale or trade of apparatus normally used in an amateur station, provided that such activity is not conducted on a regular basis.

5. THE FCC HAS A SIMPLE SOLUTION: DENY RM-11708 and 16-239 in a Report and Order as fatally flawed, and direct the ARRL to submit a NEW petition to give them a “new proceeding” to work out the critical details they ignored in the first petition. Once their Ad Hoc committee generates a suitable plan, hopefully peer reviewed by ARRL membership at large, they can submit it again, to obtain a new rule making proceeding which INCLUDES the HF band plans.

## **F. CONCLUSION**

I wish to thank the FCC for ensuring contact with the FCC proceeded according to proper rule making procedures, rather than allowing special interests a “back door” access without filing proper Ex Parte Notices.

**In closing, I urge the FCC to REJECT the September 17, 2019 ARRL proposal and conclude 16-239 with a Final Report and Order DENYING the entire Rule Making or FNPRM as fatally flawed. By their own admission important issues “have merit and should be considered”.**

The ARRL has MISSED ITS DEADLINE, and HAS NOT CHANGED ANYTHING FROM THEIR ORIGINAL PETITION TO IMPROVE IT. There is nothing to gain by extending this proceeding further. The FCC should consider joining the EU and most of IARU region 3 in disallowing third party traffic, if technical approaches to regulating abuse of amateur spectrum cannot correct this situation. Legitimate emergency and relief communications would still be legal in IARU rules.

Also please **use RM-11831**, to resolve important issues arising from NPRM 16-239.

Please revise and update 97.7, 97.105, 97.109, 97.113, 97.115, 97.219, 97.221, and 97.307(14) [to clarify that ACDS is NOT allowed in the 60 meter band], and 97.309 to eliminate the ambiguities that have been exposed in RM-11708, NPRM 16-239, and RM-11831.

In addition, there are long delayed multiple open amateur radio rule makings which need to be

acted on in a timely fashion, in an FCC **Omnibus Report and Order**, to properly assemble all the pieces of this jig saw puzzle.

**Please REJECT:** RM-11759, RM-11829, RM-11828, RM-11826. **APPROVE:** RM-11785, RM-11767. **ADOPT, REJECT, OR DECLARE DORMANT:** RM-11834, RM-11835, RM-11775.

Respectfully submitted, /S/  
Janis Carson, AB2RA

Please incorporate by reference the following filings: ENFORCEMENT BUREAU TICKET # 3184322  
<https://ecfsapi.fcc.gov/file/11091541913133/FCC%20WT%2016-239%20ARRL%20reply.pdf>  
<https://ecfsapi.fcc.gov/file/1071958608259/July%2018%2C%202019%20Ex%20Parte%20Filing.pdf>  
<https://ecfsapi.fcc.gov/file/10513284335700/RobertStephensARRLreply.pdf>  
<https://ecfsapi.fcc.gov/file/10502200072815/REPLY%20ARRL%2011828%20a.pdf>  
<https://ecfsapi.fcc.gov/file/10330103611071/RM-11831%20FINAL%201.pdf>  
<https://ecfsapi.fcc.gov/file/1020199526416/FINAL%20REPLY%202019%20%2016-239.pdf>  
[https://ecfsapi.fcc.gov/file/1219623911650/SSCA%2012\\_18%20REPLY%20Final.pdf](https://ecfsapi.fcc.gov/file/1219623911650/SSCA%2012_18%20REPLY%20Final.pdf)  
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