

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554
Mar 29 2 20 PM '93

DISPATCHED BY PR Docket No. 93-851

In the Matter of

Amendment of Part 97 of the	RM-7649 RM-7669
Commission's Rules Concerning	RM-7675 RM-7676
Message Forwarding Systems in	RM-7681 RM-7904
the Amateur Service.	

NOTICE OF PROPOSED RULE MAKING

Adopted: March 18, 1993; Released: March 29, 1993

Comment Date: July 1, 1993
Reply Comment Date: August 1, 1993

By the Commission:

I. INTRODUCTION

1. In this *Notice of Proposed Rule Making (Notice)*, we propose to amend the rules concerning amateur stations participating in message forwarding systems.¹ This proceeding was initiated by six petitions for rule making.²

II. BACKGROUND

2. Currently, the rules that apply to control operator responsibility for content of messages for an amateur station participating in a message forwarding system are the same rules that apply to the control operator of any other amateur station.³ Essentially, under the current rules, all intermediate relay stations have responsibility to assure that the content of each retransmitted message complies with the amateur service rules, even though the message may be

received and retransmitted automatically. The petitioners claim, however, that Section 97.103(a) of the Commission's Rules, 47 C.F.R. § 97.103(a), hampers unnecessarily the operation of high speed message forwarding systems⁴ and repeaters.⁵ The petitioners claim that the potential for transmitting large numbers of messages in these systems cannot be achieved because Section 97.103(a) does not distinguish between the responsibilities of the station originating and those only forwarding or repeating violative communications.⁶ They state that Section 97.103(a) leaves no alternative but for the control operator of every forwarding station in a system to delay the retransmission of each message until after it is reviewed carefully.⁷ They claim, moreover, that amateur operators are reluctant to participate in high speed message forwarding systems because their stations might retransmit violative communications inadvertently.⁸

3. The petitioners request that the Commission modify its compliance policy for stations participating in message forwarding and voice repeater systems. Specifically, the petitioners request that we hold the licensee of the station originating a message primarily accountable for violative communications. Under this approach, licensees of stations that only retransmit messages would not be held accountable for communications they forward or their stations retransmit unwittingly.⁹ The objective of this proceeding, therefore, is to ascertain what special rules, if any, should be provided for message forwarding systems.

III. DISCUSSION

4. We concur with the petitioners that it is impractical to apply the current policy regarding licensee accountability to all stations in message forwarding systems. Requiring a message-by-message screening procedure at each forwarding station greatly reduces the efficiency of these systems. On the other hand, like the petitioners, we are concerned about the potential for misuse of these systems. Therefore, we want to examine our general policy for message forwarding systems.

5. The petitioners recommend that only the station licensee and the control operator of the station that originates a communication that violates the rules be held responsible. While we agree that the originating station licensee and control operator should be held responsible

¹ A message forwarding system is a group of amateur stations participating in a voluntary, cooperative, interactive arrangement where messages and other communications from the control operator of an originating station are transmitted to one or more destination stations via forwarding stations, which may or may not be automatically controlled.

² The petitions were received from Tom M. Blackwell and Joe Jarrett (RM-7649), John S. Burningham (RM-7676), James N. Howard, Jr. (RM-7669), Michael R. Reynolds (RM-7904), Robert Charles Rogers, Donald LaBrenz II, and George Schemm (RM-7681), and Douglas E. Smith (RM-7675).

³ See Part 97 Subpart B - Station Operation Standards, Sections 97.101 through 97.121 of the Commission's Rules, 47 C.F.R. §§ 97.101-97.121.

⁴ Amateur operators frequently refer to these systems as automated packet radio message forwarding systems or packet networks, linked repeater networks, digipeaters, and packet radio bulletin boards.

⁵ RM-7649 requests amendment of the rules as they apply to voice repeater operation. RM-7676 requests amendment of the

rules as they apply to repeater and data system operation generally. The other four petitions are directed to amendment of the rules as they apply only to amateur stations transmitting digital communications.

⁶ Section 97.113 of the Commission's Rules, 47 C.F.R. § 97.113, prohibits amateur stations from transmitting music; communications in connection with any activity that is contrary to law; encrypted messages; words, language, or meaning that is obscene, indecent, or profane; and false or deceptive messages or signals. It also prohibits any communication the purpose of which is to facilitate the business affairs of any party and transmitting communications as an alternative to any other authorized radio service. Revisions to these prohibitions are being considered in another rule making proceeding. See *Notice of Proposed Rule Making*, PR Docket No. 92-136, 7 FCC Rcd 4231 (1992).

⁷ RM-7904 at 1.

⁸ RM-7669 at 2.

⁹ RM-7649 at 1, RM-7669 at 2, RM-7675 at 3, RM-7676 at 1, RM-7904 at 1.

for violative communications they originate,¹⁰ we are not convinced that only holding the originating station licensee responsible would be sufficient to prevent misuse of message forwarding systems. It appears that the control operator of the station that first forwards¹¹ communications from the originating station on behalf of the system is also in a good position to determine if those communications violate the rules and take corrective action where necessary. Therefore, in addition to holding the originating station licensee and control station operator accountable, we propose to add new Section 97.217 to the rules to also hold the control operator of the first forwarding station accountable for communications transmitted within a message forwarding system. We believe that this approach would allow high speed message forwarding systems to operate as efficiently as they are intended and still provide the safeguards necessary to prevent system misuse.¹² Under this approach, the only delay occurs during screening at the first forwarding station. Thereafter, all other stations can retransmit the message with little or no delay. Because of the standardized format of the amateur AX.25 frames, for example, both the originating and first forwarding station can be readily identified.¹³

6. To avoid confusion regarding the meaning of the term "message forwarding system", we propose to add a definition of this term in Section 97.3 of the Rules, 47 C.F.R. § 97.3. We also propose to revise the definition of the term "repeater" in Section 97.3 to clarify the difference between a repeater and a message forwarding system and to reflect the practical meaning that "repeater" appears to have in the amateur service, *i.e.*, a station that uses different channels to receive and instantaneously retransmit the frequency or phase modulated voice or television transmissions of another station. Further, we propose to codify in Section 97.205, 47 C.F.R. § 97.205, the existing compliance policy applicable to control operators of repeater stations. Under this policy, established in the *Memorandum Opinion and Order* in Docket No. 21033, 67 FCC 2d 1107 (1978), the control operator of a repeater is not held accountable for communications retransmitted inadvertently by the repeater station.

IV. CONCLUSION

7. This proposal would serve the public interest by removing a barrier to automatic message forwarding systems relaying messages at high speeds, thereby making more efficient use of available radio spectrum and encouraging greater numbers of licensees to participate in message forwarding systems. Additionally, these rules would provide improved communications capabilities while protecting against abuse. We seek comment, therefore, on the rule changes as proposed in the Appendix.

¹⁰ See Sections 97.103 and 97.105 of the Rules.

¹¹ The first forwarding station is the station that receives a communication directly from the originating station and inputs it into the "system." The first forwarding station licensee could establish guidelines for messages that the station will accept for introduction into the message forwarding system. For example, the control operator of the first forwarding station could personally review each message prior to allowing its introduction into the system or could accept the risk of retransmitting a message from an originating station whose licensee the control operator deems trustworthy without checking it.

V. PROCEDURAL MATTERS

Ex Parte Rules - Non-Restricted Proceeding

8. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

Regulatory Flexibility Act

9. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because, if the proposed rule amendments are promulgated, there will not be any significant economic impact on small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The amateur service may not be used to transmit business communications on a regular basis. See 47 C.F.R. § 97.113(a). The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601-612 (1981).

Comment Dates

10. Authority for issuance of this *Notice* is contained in Sections 4(i), 303(b), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(b), (g), and (r). Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before **July 1, 1993**, and reply comments on or before **August 1, 1993**. To file formally in this proceeding, you must file an original and five copies of all comments, and reply comments. To file informally, you must file an original and one copy of your comments, provided only that the Docket Number is specified in the heading. You should send comments and reply comments to: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

11. For further information, contact William T. Cross, Personal Radio Branch, Private Radio Bureau, (202) 632-4964.

¹² Although control operators of forwarding stations other than the first forwarding station would no longer have to screen each message, they would be responsible for discontinuing communications that violate the rules once they become aware of their presence.

¹³ The AX.25 Amateur Packet-Radio Link-Layer Protocol specifies the content and format of a packet-radio frame and how that frame is processed at the Link layer by packet-radio stations. This protocol was one of the first protocols used in amateur service automatic message forwarding systems.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Donna R. Searcy
Secretary *WFC*

APPENDIX

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 97 - Amateur radio service

1. The authority citation for Part 97 would continue to read as follows:

Authority citation: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. §§ 151-155, 301-609, unless otherwise noted.

2. Section 97.3(a) would be amended by redesignating paragraphs (28) through (44) as paragraphs (29) through (45), respectively, adding a new paragraph (28), and revising paragraph (36) to read as follows:

§ 97.3 Definitions.

(a) ***

(28) *Message forwarding system.* A group of amateur stations participating in a voluntary, cooperative, interactive arrangement where communications are sent from the control operator of an originating station to the control operator of one or more destination stations by one or more forwarding stations.

(36) *Repeater.* An amateur station that instantaneously retransmits on a different channel the angle-modulated phone or image emission transmission of another amateur station.

3. Section 97.109(e) would be revised to read as follows:

§ 97.109 Station control.

(e) No station may be automatically controlled while transmitting third party communications, except a station participating as a forwarding station in a message forwarding system.

4. Section 97.205 would be amended by adding new paragraph (g) to read as follows:

§ 97.205 Repeater station.

(g) The control operator of a repeater is not accountable for violative communications that the repeater retransmits inadvertently.

5. Subpart C of Part 97 would be amended by adding new Section 97.217 to read as follows:

§ 97.217 Message forwarding system.

(a) Any amateur station may participate in a message forwarding system, subject to the privileges of the class of operator license held.

(b) The control operator of the station originating a message and the control operator of the first station retransmitting that message are accountable for violative communications that are transmitted in a message forwarding system. The control operators of other stations inadvertently retransmitting violative communications in a message forwarding system are not accountable for the violative communications.