

the spectrum efficiency and other characteristics of LMS systems.³⁴ These problems are so severe that one party has challenged some AVM systems as failing to meet statutory standards for improving spectrum efficiency, increasing sharing between different types of users, fostering competition, and serving the largest number of users.³⁵

In light of (1) the substantial doubts that have been raised about the need for increased spectrum allocations for LMS services, (2) the ready availability of other spectrum for these purposes, and (3) the questionable design and performance characteristics of at least some LMS systems, the argument for expanding LMS operations at 900 MHz is weak indeed. It falls far short of the showing that should be required to justify curtailing the consumer benefits resulting from Part 15 operations in this band.³⁶

^{34/} See Comments of Norand at 6-7 (discussing interference susceptibility of wideband LMS systems) & 8-9 (raising concerns about biological effects of human exposure to LMS RF emissions); Comments of The Interagency Group at 3 (danger of interference to wideband LMS systems from narrowband LMS system may be as much a product of flaws in former's design as in latter's); Comments of Southern California Edison Company at 11 (FCC should not approve use of system that is so fragile it cannot coexist). Even LMS proponents stress their need for interference-free environment. See, e.g., Comments of Mobilevision, L.P. at 21-25 (unless environment is relatively interference-free, costs will be increased prohibitively and commercial viability of system will be in doubt).

^{35/} Comments of AT&T at 2-4 (also notes that Teletrac approach uses 50 times as much spectrum as GPS, yet capacity is only 6 times greater).

^{36/} One enthusiast of intelligent vehicle highway systems ("IVHS") encourages the Commission to find a way to accommodate IVHS and toll collection needs, but because of frequency congestion in the 902-928 MHz band it recommends that spectrum above this ISM band be assigned for this purpose. See Comments of the Florida Department of Transportation at 1-2.

V. The Proposed Amendments of Part 90 Should Be Withdrawn.

The uncertainty created by the pendency of the proposals in the Notice is already causing adverse effects in the Part 15 marketplace. Prompt action is needed to eliminate this uncertainty and to restore confidence that the Commission will continue to encourage the robust innovation that has been triggered by the Part 15 rule amendments.

The Commission's proposal is already causing adverse effects for Part 15 manufacturers. One major manufacturer has reported to EIA/CEG that its retailers are now considering curtailing orders for 900 MHz Part 15 products that previously had been quite popular, solely because of the pending threat of interference with LMS. Another major manufacturer has reported to EIA/CEG that it is deferring its manufacture of 900 MHz Part 15 products (even though design and development work have been concluded) for the same reason. The Commission needs to act with dispatch to remove this cloud and allow thriving innovation in Part 15 products to continue.

EIA/CEG does not support partial solutions that would merely reduce to a limited degree, or simply postpone, adverse effects on Part 15 products. Ideas such as grandfathering Part 15 devices for three years, delaying expanded LMS operations, or concentrating LMS operations in a portion of the 902-928 MHz band have all been proposed,³⁷ but none of these measures would preserve the full measure of opportunities for manufacturers, retailers, and consumers that were created just a few short years ago by the Part 15 rule amendments. We

^{37/} See Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems, PR Docket No. 93-61, DA 93-516 (released May 5, 1993) (seeks potential solutions such as restricting Part 15 devices to portion of band or placing stricter limitations on Part 15 devices in the band); Comments of Ericsson at 10-11 (limit LMS to 903-912 and 918-922 MHz, or delay LMS entry into other bands for three years); Comments of Sensormatic at 26 (restrict AVM to 920-928 MHz); Comments of Part 15 Coalition at 9 (reduce wideband AVM allocation from 8 MHz to 4 MHz).

agree with the Telecommunications Industry Association that it is premature to make any permanent authorization for AVM or LMS in the 902-928 MHz band.³⁸ Even if new manufacturing of Part 15 devices could be stopped tomorrow (a development that would deny consumers the very substantial benefits made possible by innovation in Part 15 products), this would not affect the millions of such devices that are already operating in the band. To identify, confiscate, and deactivate them all would entail astronomical costs and would likely be unsuccessful in any event.³⁹

On the present record, EIA/CEG believes that the Commission should abandon its effort to accommodate additional Part 90 uses in the 902-928 MHz band. We respectfully recommend that the proposals in the Notice be withdrawn.

VI. Conclusion.

For the reasons given above, EIA/CEG believes the Commission should abandon the proposals set forth in the Notice. The Commission's Part 15 amendments have stimulated massive investments and already resulted in significant innovations. The products resulting from the Commission's actions are meeting important needs for residential consumers, large

^{38/} Comments of TIA at 5.

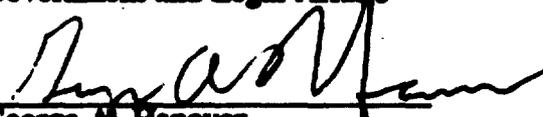
^{39/} Comments of Sensormatic at 18-19; see also Comments of ADEMCO at 11-12 ("the entire market for unlicensed products used within the band could collapse. Consumers would lose confidence in the marketplace, manufacturers would be unwilling to invest in new Part 15 product development, and the FCC would be faced with a barrage of complaints").

and small businesses, and all levels of government. These benefits cannot responsibly be sacrificed. If and to the extent the Commission is inclined to try to find other ways to accommodate mobile identification, location, and messaging services, it should focus its attention on frequency bands other than 902-928 MHz.

Respectfully Submitted,

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