

RECEIVED
APR 27 1995
FCC MAIL ROOM

THE AMATEUR RADIO NEWSLINE
Editorial Office
28197 Robin Avenue
Saugus Ca. 91350
Tel/Fax: (805) 296-7180
MCI Mail: 324-1437
America Online: BILLWA6ITF
GENie: B.PASTERNAK
Internet: billwa6itf@aol.com

April 21, 1995

COMMENTS ON RM-8626

Before the Commission:

(In the matter of)
(R.M. - 8626)
(Comments of the)
(Amateur Radio)
(Newsline)

DOCKET FILE COPY ORIGINAL

Dear Members of the Commission,

On behalf of the Amateur Radio Newsline, a programming service provider of news and information primarily to the United States Amateur Radio service, I do place before the Commission our comments on RM-8626; a request by FCC licensed radio amateur Frederick O. Maia (amateur radio call sign W5YI), as outlined in FCC R.M. 8626 to modify section 97.111 of the Amateur Radio Service Rules to preclude the issuance of one-way transmissions by Commission licensed Amateur Radio operators on all Amateur Radio Service bands below 30 MHz. We oppose this petition as issued and presented as outlined in these comments.

Background on Commenter:

The Amateur Radio Newsline is an all volunteer organization of broadcast professionals who donate their time and talent in the

No. of Copies rec'd 025
List ABCDE FLB

Pg. 2

production of a telephone distributed weekly news and information bulletin to the United States Amateur Radio community. The bulletin is produced in Los Angeles California and telephone fed to automated re-distribution sites (FCC type approved Telephone Answering Devices {TAD}) in a dozen locations throughout the United States. Individual radio amateurs are invited to call into any of our automated lines, record the weekly bulletin, and replay it to other radio amateurs as permitted under section 97.111 of the Amateur Radio Service rules.

Our primary target audience are those radio amateurs who operate in the Amateur Radio Service bands above 50 MHz, with the majority of our listeners utilizing the facilities of up to 9000 Amateur Radio Service repeater stations in North America who regularly retransmit Newsline bulletins on a pre-published schedule and the satellite retransmission of our service as an integral part of the weekly program "This Week in Amateur Radio."

As such, each weekly newscast is heard by an estimated 350,000 to 450,000 active radio amateurs throughout North America and an untold number globally. As such, we have a far greater market penetration than any other Amateur Radio related news and information service existing today.

Newsline, established in 1976, prides itself in its ability to provide the nations Amateur Radio community with a concise, accurate, unbiased (as is humanly possible) and entertaining ten to fifteen minute news and information bulletin as a free service to that community. We have been, at this writing, providing this free service

Pg. 3

in excess of 925 consecutive weeks (close to eighteen years). In direct recognition of this accomplishment, this writer and Newsline were honored by the Dayton Amateur Radio Association, when in 1981, this writer was selected as Specific Achievement Award recipient and in 1989 as Radio Amateur of the Year in specific recognition for the development and continuation of the Newsline service. The only person and group to be honored twice by the Dayton Amateur Radio Association. It is not an understatement to say that these awards are considered as being the "Emmy" and "Oscar" of the Amateur Radio Service. Few attain either one. We are honored to have received both.

Argument:

It is our strong belief that the role we play as a conduit of timely news and information to the United States Amateur Radio Service makes it imperative that we take an active role in commenting to the Commission on the regulatory change request as outlined in RM-8626, but doing so with total objectivity cannot be accomplished without time being granted to further investigate the issues and formulate opinions on the overall matter, before filing to the Commission.

From the outset of this commentary, may we once again point out that our primary target audience are those United States radio amateurs operating in the Amateur Radio Service bands above 50 MHz.

Also as previously stated, we are a telephone delivered audio service. We do not sponsor or support any transmitting facilities on any Amateur Radio Service band. Our role is that of program producer and distributor only.

Based on these two factors, we believe that we have the ability to be far more objective in commenting in this matter than might someone who is a transmission point for our, or any other one-way bulletin transmitted on any Amateur Radio Service band.

There is no "Growing Pattern of Abuse:"

In his regulatory change request, petitioner Maia claims that : "Over the years certain stations have become so-called "bulletin stations," transmitting one-way broadcast-type programs on the 75/80, 40 and 20 meter bands and other hf bands as well. Although bulletins and code practice are the exceptions and not the rule, these bulletin stations regularly broadcast on scheduled frequencies regardless of any on-going two-way communications. They are abusing the privilege. The many are suffering at the hands of the few."

Is there widespread abuse as Mr. Maia claims? To find out, this commenter recently performed a simple albeit unscientific survey. Over a period of two weeks and at different times of day on various days, we monitored the domestic radiotelephone allocations on the various High Frequency Amateur Radio Service bands to locate and authenticate the operation of major one-way bulletin station transmissions by FCC licensed radio amateurs.

We limited our monitoring to the "voice" areas of the High Frequency Amateur Radio Service allocations since we are well aware that the majority of complaints received by the Commission related to one-way transmissions using "voice." (This commenter is not aware of any outstanding complaints to the Commission dealing with interference

Pg. 5

to normal Amateur Radio Service operations being caused by any non-voice modes and interference caused by one-way transmissions emanating from outside the area of jurisdiction of the FCC are not within its purview to control.)

Over a fourteen day period in late March, I personally made a list of all of the major domestic U.S.A. high frequency ham radio voice bulletin stations that operate on a regular schedule. Our research yielded only three of any consequence. These are Mr. Glenn Baxter K1MAN, the American Radio Relay League's headquarters station W1AW and the 160 Meter Gateway Bulletin Service operated by Mr. Vern Jackson WA0RCR from Wentzville Missouri. (This last service is not audible on the West Coast of the United States due to propagation characteristics, but we have been informed of Mr. Jackson's highly regarded bulletin station operation.) Three is not a crowd!

As to spectrum utilization, each service occupies a given frequency, selected depending on mode of transmission and radio wave propagation at a given time of day, and transmits for a given time period each day. The total airtime of all of these services combined is about eight to ten hours in any given twenty four hour period. The least spectrum vs. time utilization for voice bulletins is by the American Radio Relay League/W1AW, followed by the operation of Mr. Jackson with the greatest amount of voice time transmission being on the part of Mr. Baxter. But averaged out over any seven day period, even his transmissions are normally under six hours per day and limited to only two Amateur Radio Service frequencies per service provider.

When looked upon in relation to the 450,000 FCC licensed radio amateurs of General class or higher who have access to these Amateur Radio Service radiotelephone bands, and scientifically evaluated based on the number of licensees vs. spectrum available vs. total operation of all major High Frequency Amateur Radio Service bulletin stations, the numbers prove him to be wrong.

Morse Code Practice is "Mouse Milk"

Regarding Morse Code practice sessions on the high frequency airwaves Mr. Maia's petition states: "Similarly, code practice is now easily accomplished via software training and simulation programs."

I will not hide my personal advocacy for abolishing Morse code proficiency testing as a requisite requirement for operating an Amateur Radio station in the spectrum below 30 MHz. I am an ardent proponent of finding a modern alternative to testing candidates for Amateur Services licenses as an alternative to the Morse code. This position is not necessarily representative of all Newsline volunteers.

The Commission is very much aware that the Morse code is quickly being superseded by newer digital relay and satellite relay technology. Within the past month, the United States Coast Guard discontinued the very last of its high seas Morse Code monitoring, and most other services have also abandoned it.

The Amateur Radio service is the exception. International law mandates that a radio amateur wishing operating privileges on Amateur Radio spectrum below 30 MHz prove to a given administrations licensing

Pg. 7

authority that he/she can send and receive the Morse Code at a given minimum speed. While there is a major worldwide movement to abandon Morse Code proficiency testing as a requisite requirement for operating an Amateur Radio station in spectrum below 30 MHz, and the matter may be acted upon at an upcoming World Radiocommunications Conference, until such time as international regulations and domestic regulation change, the Commission is obliged under international treaty to continue testing in this area.

Since testing is required, so is training. And while there are many ways to study Morse Code to obtain the necessary proficiency, in the end nothing beats the real-live world of the on-the-air "confrontation" of Morse signals and learning to separate one from another over the air.

The fact is that only W1AW and a tiny handful of dedicated individual radio amateurs bother to supply code practice sessions. And with only a small number of stations providing a service where specific practice text is sent; text that can later be checked to evaluate proficiency progress; there is little impact on other high frequency Morse operations.

To this date we have not heard of any complaint being filed to the FCC dealing with malicious interference to normal high frequency Morse operations being caused by a Morse practice station. We seriously doubt if any have ever been filed. If our assumption is correct, then this is naught but a proverbial "tempest in a teapot" that should be ignored by a Commission that has far more important

obligations to society.

The FCC Has Stated That It Will Not Micro-Manage:

At numerous recent Amateur Radio conventions, speakers from the FCC have stated that they have no interest in micro-managing the Amateur Radio Service. Rather, it has been stressed that the Amateur Radio Service Rules were written to be a broad guide for the service. Commission speakers have stressed that this permits expansion of all special interests within the service without undue restriction. We submit that the Commission should consider the manpower and monetary requirements involved in policing such a regulatory change.

Impossibility of Enforcement:

Let us suppose for a moment that the Commission decides to grant Mr. Maia's request and institute a ban on all one-way transmissions on all Amateur Radio Service bands below 30 MHz. What is to stop an individual with a "bent on delivering his or her personal message" from getting the assistance of another individual radio amateur; forming a pseudo service network (net) of two Amateur Radio Service licensees, and then transmitting his or her diatribe to all while supposedly directing it to the one other individual?

The answer is that there is nothing in the rules to prevent this! And the Commission can be all but certain that an individual with this objective will quickly find this loophole and utilize it. This in turn will lead to more requests for regulatory change to ban network activities.

I am sure that the Commission would not want to face having to

Pg. 9

make that kind of an unpopular decision; especially since one of the objectives of this current regulatory change request is to protect radio amateurs and their service networks from the alleged interference caused by individual one-way bulletin station operations!

The Real Problem:

Yes there is a singular real but isolated problem in relation to the issuance of one-way news and information bulletins on the high frequency bands. It is a personality conflict between Mr. Glenn Baxter, K1MAN, who operates his Amateur Radio station almost exclusively in bulletin format; and a number of radio amateurs who have made it clear that they do not like him, do not like the content of his bulletins and want him to leave the air.

The Commission is also aware that Mr. Baxter's position is that section 97.111 of the Amateur Radio Service rules gives him the "right to operate as a bulletin station;" and that he plans to continue this form of operation regardless of the wishes and desires of other radio amateurs.

We submit to the Commission that this is not a matter that can be solved by punishing all Amateur Radio Service licensees because of the inability of a few licensees to settle a personal conflict. If it requires any legal intervention; which we doubt; then it should be limited to the parties involved and handled by them on a civil basis.

Rather than chastising all radio amateurs because a small percent have animosity towards one another, we believe that all involved in such a conflict must be made aware that the Commission has neither the

funds nor the manpower to involve itself in such utter stupidity.

Further, we believe that if any FCC action is warranted, it should be handled on a case by case basis; that it be punitive in nature and directed specifically at all involved in a given squabble, and based on regulatory violations made by either side.

This is Not a Freedom of Speech Issue:

There are some advocates of one-way voice information bulletin transmission in Amateur Radio who claim this as First Amendment speech and thus merits consideration as protected personal expression. This type of argument is irrelevant since nothing in the First Amendment entitles any citizen to utilize any communications medium available to him/her in any manner and under any terms and conditions he or she chooses. It is also well established that there is no Constitutional right to transmit radio signals without first meeting a specific criteria established by the government of the United States to do.

More importantly, every Commission licensee, in accepting a license grant issued by the government of the United States though its authorized agent in the Federal Communications Commission, does waive any claim to the use of the spectrum as against the regulatory power of the United States. This is an inherent condition of licensing that every FCC applicant accepts.

In Conclusion:

As the Commission can easily see, there is not a hoard of bulletin stations descending on any band. And with the exception of

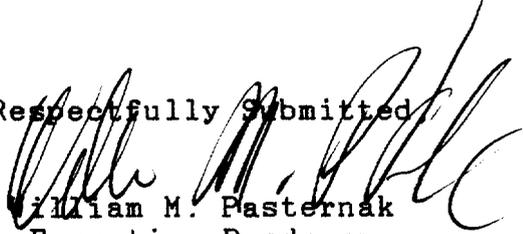
Pg. 11

the noted above personality clash between Mr. Baxter's bulletin station operation and a part of the ham radio community, there really does not appear to be any harm taking place.

Based on the foregoing, the Newsline organization request that Mr. Maia's regulatory change request as outlined in R.M. 8626 be denied.

We also ask that the Commission utilize its ability to enforce ~~any~~ any and all existing rules governing willful and malicious interference to solve few sporadic incidents of on-the-air confrontation between bulletin stations and Amateur Radio community members.

Respectfully Submitted



William M. Pasternak
Executive Producer
Amateur Radio Newsline

CC: Mr. Frederick O. Maia, W5YI
Mr. Raymond A. Kowalski, Esq.