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

ORIGINAL

In the Matter of)
)
Amendment of Part 97 of the)
Commission's Rules to Eliminate)
Certain One-Way Communications in)
the Amateur Radio Service Medium)
and High Frequency Bands)

RM No. 8626

To: The Commission

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REPLY COMMENTS OF FREDERICK O. MAIA, W5YI

Respectfully submitted,
Frederick O. Maia, W5YI

By: Raymond A. Kowalski
Raymond A. Kowalski, Counsel
Keller and Heckman
1001 G Street, NW., Suite 500 West
Washington, D.C. 20001

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EXECUTIVE SUMMARY

Frederick O. Maia, W5YI submits reply comments in response to his Petition for Rule Making filed on March 16, 1995. Section 97.111(b)(5) and (6) permit one way information bulletins and telegraphy practice to be transmitted on all amateur service bands.

Some amateur stations are taking advantage of these rules and are, in effect, establishing international broadcast stations on the amateur high frequency bands. These stations are interfering with regular two-way amateur communications which results in much on-air hostility. We request that these broadcast-type transmissions be permitted only above 30 MHz.

The American Radio Relay League has erroneously notified their membership of the substance of this petition and most comments from ARRL members do not respond to its content. The ARRL implied that the motivation for this proposal was to reduce competition for certain of our business activities. We also question whether the majority of the commenters even reviewed the substance of this proposal prior to commenting.

Several commenters did, however, acknowledge that there is a serious broadcasting problem which is increasing at the HF level. Broadcast bulletins are causing amateurs in two-way contact with other stations to retaliate by jamming the bulletin station's signals.

Bulletin stations generally believe that the FCC rules permit them to operate on a specific frequency for any length of time regardless of channel occupancy, especially if they publish a schedule beforehand.

They also believe that they are exempted from the rules that require a station to monitor a frequency prior to transmitting. In effect, bulletin stations are stating that the fixed frequencies they employ belong to them which is contrary to the rules.

Our belief is that there are now adequate distribution alternatives to on-the-air HF bulletins. There is also confusion and controversy as to just what constitutes the content of legal one-way bulletin transmissions.

There is evidence that the transmitting duration of amateur "broadcast" stations is increasing and they are becoming a nuisance. Several commenters offered suggestions on how to deal with this problem.

We included telegraphy practice in our proposal since their mode of operation parallels that of voice bulletins. We agree, however, that the problem essentially exists on the HF telephony bands and the FCC may wish to discontinue the rules which permit voice HF broadcasting.

Frederick O. Maia, by his counsel, hereby submits reply comments on his proposal to amend Part 97 of the Commission's rules to eliminate the provisions which permit Amateur Radio Service stations to transmit one-way information bulletins and international Morse code practice below 30 MHz. No where in the petition was it suggested that any other one way transmissions such as beacons, telecommand, telemetry and certain retransmissions be included.

Objectives

Our stated goals are to alleviate the level of anger and retaliation present on the HF bands which is caused when one-way, broadcast-type transmissions interrupt two-way communications already in progress. We also said we were concerned about the example this back and forth hostility was presenting to new amateurs.

The comments

Most of the comments opposed to the Petition contain little more than testimonials to ARRL station W1AW. The value of these testimonials is limited in the context of RM-8626. Whatever the purported benefits of the

broadcast content, it is the nature of broadcasters' on-air behavior and the effects on other spectrum users that must be examined.

Few of these commenters proposed solutions to the broadcasting problem or even apparently read or understood RM-8626. It is more likely that they filed in reaction to an article in the ARRL Letter of April 3, 1995, and to ARL Bulletin No. 34, distributed April 5, 1995 from W1AW. Both reports contained misleading and incorrect information concerning the Petition. For example, they allege that RM-8626 would eliminate all one-way transmissions, when in fact the Petition would not affect all types of one-way transmissions.

In addition, an ARRL campaign was noted at the Dayton HamVention whereby amateurs were asked to sign pre-printed comments opposing RM-8626 due to alleged impact on W1AW, but containing none of the substance of RM-8626.

Also as prompted by ARRL, many commenters falsely cited an economic motivation for RM-8626. The genuine purpose of the Petition, however, is to reduce interference, and the hostility it engenders in the Amateur

Service, by removing rules that some operators exploit for one-way broadcast-type transmission below 30 MHz.

The ARRL believes that "Maia, in the League's view, vastly overstates the level of concern about abuses of the Commission's existing rules governing one-way transmissions in the Amateur Service."¹

In fact, that amateur broadcasting is a serious problem requiring prompt Commission attention is amply documented by numerous supportive commenters, including ARRL members, in the record of this proceeding.

Don Simpson, KO4TA (Woodstock, GA), agrees that amateur broadcasting is a real problem. He complains of bulletin interference consisting of "...endless loop tape playing for over 48 hour periods" and notes that amateur broadcaster K1MAN recently "...has tripled his transmission times."

Charles M. Albert, Jr., KC6UFM (Fredericktown, MO) urges adoption of RM-8626. "The situation on the Amateur bands below 30 MHz with many stations broadcasting information that meets the current rules has become

¹ ARRL comments at 5.

intolerable. All of the stations that engage in broadcasting blatantly disregard the regulations and standards of good operating practice by failing to check the frequency for ongoing communications before transmitting and so create deliberate interference."

"All of the stations in question have stated a belief that the frequencies they use belong to them. This is in direct violation of regulations," Albert writes. "The state of the art has outpaced the need for things like Morse Code practice transmissions and announcement type bulletins."

Jim Rinehart, WB9CEP (Indianapolis, IN) believes "We have enough interference from broadcast stations without adding amateurs who want to play International Broadcaster." He said "It's not the 60's when W1AW bulletins were the only way to stay current with what was going on in Amateur Radio."

Jim Monahan, K1BNQ (Easton, CT) agreed that "...there is abuse by a few stations who transmit for extended periods of time in the name of information bulletins." He observed that there "...is a certain vagueness regarding exactly what constitutes a legal one

way transmission and what does not," and cited a 160 meter AM operation that "...transmits by the hour, with professional sounding announcers," and has apparently been doing so for a number of years.

"As new amateurs ...hear these activities going on, it will only foster new stations operating in this manner," he wrote. "I also believe that there is the possibility that some of these stations may soon become 24 hours stations if this continues."

Monahan called for increased FCC enforcement, legitimizing only certain bulletin stations and limiting one way transmissions to fifteen minutes and no more than once or twice a day.

Bennett Z. Kobb, KC5CW (Arlington, VA) points out the "fundamental incompatibility of broadcasts in the amateur bands with the basis and purpose of the Amateur Service." He cites "incessant one-way operations" that "emit filibusters, not 'messages' and therefore (are) not bona fide information bulletins."

Although FCC Rules do not allow amateurs to conduct broadcasting, Kobb contends that "...some amateurs

through lengthy, repetitious voice transmissions on multiple frequencies, transform their stations into de facto International Broadcast Stations. ...Taken as a whole, the emission mode, scheduling, promotional and programmatic format of the transmissions at issue, together with their near-continuous spectrum occupancy and apparently automated nature, ignorant of ongoing communications, identify them as *a form* of broadcasting and thus prohibited by Section 97.113(c)."

Stephen T. Bentley, WD4ITY (Forsyth, GA) said he "...would prefer to see only the phone bulletins limited to frequencies above 30 MHz." He also warns that "If some sort of rule making decisions are not made concerning one-way 'talk show' broadcasting, that these types of stations will eventually proliferate the bands making normal amateur communications as well as emergency communications very difficult."

Fred C. Adams, AC4UN (Inverness, FL) believes that "...if one way communications are allowed to continue below 30 MHz on the amateur bands, then they should be limited to no more than 30 minutes, once every six hours. As it is now, any station such as K1MAN, Glenn Baxter, can play a tape continuously over and over for hours on

end and keep a frequency tied up."

Sherwood D. Dudley, W4EWP (Lookout Mountain, TN) supports RM-8626. "K1MAN must have a grudge against the ARRL and the FCC regarding one-way broadcasting and bulletin services," he comments. "I hear him on 14.275 MHz and 3.975 MHz. He just starts broadcasting. He must never monitor the frequency or he would know a QSO was going on. If every ham would operate in this manner our ham bands would not exist."

James W. Drummond, N5YSO (Shawnee, OK) says "Amateur radio operators, like Glenn Baxter, K1MAN, have made a mockery of the intentions of the ARRL which is to inform and train new and old hams." He believes Baxter should apply for a commercial radio station if he wants to make his views known.

Robert S. Bennett, W3WCQ (Towson, Maryland) believes that RM-8626 "...addresses a problem of growing concern on the high frequency bands assigned to the Amateur Service. Specifically, the growing number of 'news' bulletins and code practice transmissions cannot be justified in the limited spectrum available. Some of these transmissions unfortunately reflect personal vanity

on the part of the operators, and are thinly veiled editorial broadcasts, rather than a true service to the Amateur community."

Don West, KF9OE (Sheridan, IN) comments "I do not want to see stations permitted to broadcast for extended periods of time (more than an hour on the same frequency) in the amateur radio bands..."

Gerald R. Gavin, NU3D (Glen Burnie, MD) is "...in favor of curtailment of K1MAN's one-way transmissions, since they appear to be strictly an ego trip. Often I have heard him come on 20 meters and interrupt ongoing QSOs."

Nelson Large, W4FQV, (Salisbury, NC) finds "no need or rationale for one-way or 'talk radio' type activity on the amateur frequencies below 30 MHz." He believes that if the activity is allowed to continue then "...one way broadcasting should be restricted to the upper 3 MHz of the 160, 75, 40 and 20 meter amateur bands." He adds, "I hope there is a way to end, or to make acceptable, an activity that fosters ill-will and rudeness where there should be mutual tolerance and enjoyment for everyone involved."

Despite the claims of ARRL headquarters that the amateur broadcasting problem is overstated, ARRL members concluded differently. Lawrence Macionski, WA2AJQ (Bluemont, VA) said that he "...received correspondence from the ARRL to make written comment to OPPOSE this petition. It is the (ARRL) director's position to oppose it, even though they know the true intent of the petition. I must break ranks as a member because (of) the current situations on the HF bands in this regard. I believe the real purpose of this petition is to 'clean up' a downward spiral. That I must agree with."

Macionski said that some activities on the HF bands are counterproductive and waste HF spectrum: "I agree with Fred Maia, and believe they should be removed from Amateur bands below 30 MHz."

Mike Musick, N0QBF (Maryland Heights, MO) an ARRL Station Appointee and member of the FCC Amateur Auxiliary, believes that the "...prohibition of one-way bulletin transmissions should be extended to cover all Amateur frequencies. There should be no exception for frequencies over 30 MHz." He agrees that HF bulletin stations "...engage in wide-area 'broadcasting' of bulletins only superficially related to the Amateur Radio

Service, and, for all intents, result in exclusive use of frequencies."

ARRL member Thomas Clements III, W1ICH (Key West, FL), favors adoption of RM-8626. He believes that "The information provided by HF broadcast transmission is readily available today via land-line or packet radio service without cluttering up the limited frequency spectrum in the HF bands. ...We need to encourage courteous behavior in the amateur bands."

Clements observes, "Unilateral transmission of information without prior checking for a clear frequency is about the most intrusive and discourteous behavior possible."

Kenneth P. Elsberry, WD4ERM (Valdosta, GA) is a past president of an ARRL affiliated club. He says "The Georgia Single Sideband Association and the Georgia ARES net has had its operations severely hampered with interference from a station making one-way broadcast transmissions on a regular scheduled basis of more than 100 times weekly. The broadcasts come on the air regardless of current frequency use and on several occasions during emergency conditions have severely disrupted

communications."

"The content of these broadcasts consists of material that is recorded from other news services, editorial opinionated radio talk show excerpts, and political news of foreign government uprisings... Much of this material is hardly of interest to amateur radio operators."

Elsberry continues, "There seems to be some myth that makes it OK for broadcast stations to run roughshod over existing users of a frequency simply because the broadcaster wants to maintain a schedule. Such operators of the so-called 'information bulletin stations' have made a nuisance of themselves and have virtually destroyed popular frequencies. ...Broadcasters are abusing their licenses and causing turmoil on the frequencies. ...How many broadcasters can the bands stand? Just how long can they occupy a frequency? What is to keep them from going 24 hours a day? ...It is simply not feasible to allow broadcasters to waste frequency space and cause the hate and discontent that they are causing on the air."

Some amateurs believe rulemaking to resolve this

situation is unnecessary. Robert M. Beatty, WB4SON (West Warwick, RI) states that "While one-way communications do on occasion, cause interference to others operating on the same frequencies, these frequencies are well published and are well known throughout the amateur community... [The] 'anger' is caused by the operators themselves who chose to become frustrated about the necessity to change frequency enough to avoid being interfered with."

In effect, Beatty suggests that mere publication or wide knowledge of amateur broadcast frequencies conveys to the broadcaster exclusive rights to the frequencies, to be avoided at all costs by other amateurs. Such a result impermissibly grants broadcasters de facto franchises to particular portions of the spectrum.

Beatty dismisses amateurs' anger that they must change frequency to avoid broadcasts, ignoring the clear responsibility incumbent upon the broadcaster to adjust frequency in order to avoid ongoing two-way amateur communication.

This argument would allow an amateur operator to simply transmit when and where desired, without

consideration for others who must move to other frequencies if they wish to continue operating.

Leonard A. Schachter, N3RPQ (Washington, DC) opposes RM-8626. He suggests, "Individuals wishing to make non-commercial information bulletin or Morse code transmissions should arrange to meet in a coordinating committee of the type established to voluntarily control repeater operations. The issue should be resolved not by the Commission, but through a 'gentlemen's agreement' of the involved parties."

This petitioner generally supports voluntary efforts to reduce interference without Commission involvement. However, two points must be raised regarding Schachter's suggestion.

First, RM-8626 concerns HF amateur operation which is nationwide and worldwide in nature, not local and statewide as in the case of repeater coordination. This vast scope of HF transmission necessitates uniform national policy.

Second, Schachter proposes no mechanism by which amateur broadcasters should be admitted to the

"coordinating committee," how such a committee should be funded and managed and what fate would await those who do not subscribe to its "gentlemen's agreement," among other questions.

The Commission cannot rely on such vague recommendations as a substitute for rulemaking. As Robert E. Nelson, WD9HSE (Kerrville, TX) states, "With over 300,000 General Class and above amateurs in the United States alone, there is no hope of coordinating an open voice frequency with every eligible licensee. The current broadcasting mess is not just a United States problem, it is international in scope."

Nelson further states that "Mr. Maia is correct there is a very real problem with abuse of amateur radio bulletin broadcasting in the HF bands. ...I believe that the real problem is voice bulletin broadcasting... I am disappointed this problem was not dealt with before a request for rule making was submitted. This problem will fester until it is resolved."

"Current regulations allow any amateur radio operator with HF privileges to establish a world-wide broadcasting service. This is easier than the alternative

route of attaining a broadcast license and setting up an expensive broadcast station. The requirement that broadcast content must be limited to material of interest to amateur radio operators makes virtually all material legal. I heard a bulletin broadcaster reporting on a local ice fishing tournament."

American Radio Relay League

The ARRL comments essentially argue why stations in bulletin operation are not Amateur Radio Stations and must not be held to the Rules observed by most amateur stations.

Regarding the issue we would describe as "frequency ownership," for example, ARRL states that the W1AW transmitters are fixed in frequency, which "permits amateurs interested in the bulletins to program those frequencies into memory channels on transceivers and receivers."²

Very simply, the ability to program receive frequencies into memory channels applies to any class or type of station. This fact cannot exempt broadcasters from a standard Amateur Radio practice: identification and use

² ARRL Comments at 2

of available frequencies suited to the conditions at a particular time.

"Shifts in operating frequency by W1AW in order to avoid any interaction with other stations would cause those who wish to receive the bulletins and code practice to have to search for the same," ARRL contends, "and would defeat the purpose of the publication of the schedule and the regularity of the service."³

Searching for a desired station, especially within several kilohertz of a known frequency, is a typical and ordinary element of HF operation and must be accepted by all amateur stations including W1AW listeners.

Moreover, the inevitable result of absolute fixed-frequency operation on a schedule is that other stations will be interfered with. As Don Simpson, K04TA, noted, "...the idea that because a schedule is published that all radio operators should give way to the bulletin is unworkable."⁴

FCC Engineer Barry Bohac stated this fact most

³ Ibid.

⁴ Comments of Don Simpson at 2.

plainly in a Notice of Forfeiture to Glenn Baxter, K1MAN. Bohac wrote, "I find no merit in your contention that because you may have published a schedule, that you were subsequently allowed to interfere with ongoing communications."⁵

Intense users of the spectrum for broadcasting nevertheless cite this necessity for fixed-frequency operation as another justification for their interfering practices and permanent enfranchisement. Carl Capps, N4TIE (Swansboro, NC) and J.W. Morris, N4FFF (Nashville, NC) note that K1MAN "...comes on regardless of who is on frequency. He doesn't check the frequency and says that the FCC gives him authority to do this."

ARRL states that "W1AW has not ever been alleged to create any significant interference to ongoing amateur communications in the admittedly crowded HF bands."⁶

That assertion, even if true, has little merit in this context, as the FCC Rules apply equally to all amateur stations. The rules ARRL cites for W1AW's

⁵ FCC Field Operations Bureau, Belfast Office, letter 3153161-90004, November 2, 1990

⁶ ARRL comments at 2.

ostensibly praiseworthy transmissions are the same rules cited by other broadcasters as justification for their violative activities. It is for this reason that we have submitted a Petition for Rulemaking rather than only a request for enforcement action.

Merely arguing that W1AW is a responsible station does nothing to discourage others from abusing amateur privileges, especially when ARRL obviously believes W1AW need not observe basic operating practices. To the extent W1AW does not behave as an Amateur Radio Station, and in fact publicly proclaims its need to operate otherwise, its high visibility prompts imitators to take to the air as psuedo-broadcasters.

ARRL argues, in essence, that its publications, its "warning messages" and the vagaries of HF propagation are sufficient to exempt W1AW from the necessity of ascertaining if the frequency it desires is available.

But broadcasters cannot be permitted such an exemption from this most "fundamental of operating practices, namely, to monitor the frequency for use before transmitting."⁷

⁷ Petition, page 5.

Although such monitoring may sometimes be less than completely effective, it is never wholly ineffective. The broadcaster's interference to ongoing communications may be unintentional, but it must still take actual technical steps to mitigate the possibility of interference beyond publications and warnings.

The broadcaster itself also is a victim of current practices. As Robert E. Nelson, WD9HSE observes, "Stations that can't hear a broadcast signal often transmit on or near its frequency in complete innocence. This routine happening in the bands is a problem that stations in two-way communication are able to deal with. A broadcast station isn't aware of the problem and continues to transmit with some or most of its coverage area rendered useless by interference."⁸

We agree with Don Simpson, KO4TA, that if the Commission cannot limit one-way broadcasting entirely on HF, then the FCC should limit bulletins to digital modes. Simpson argues: "The egos cannot be nourished in that way."⁹

⁸ Comments of Robert E. Nelson at 2.

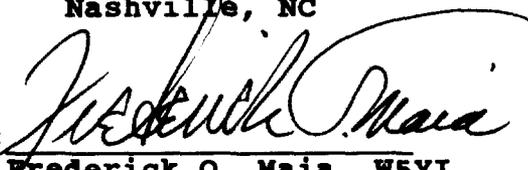
⁹ Comments of Don Simpson at 3.

ARRL implicitly concedes that it is in the voice subbands that one-way transmissions can have the most significant impact.¹⁰ Accordingly, the Commission may wish to consider discontinuing the rules permitting one-way bulletin transmissions in the voice HF subbands only.

CERTIFICATE OF SERVICE

I, Frederick O. Maia, W5YI, certify that copies of the foregoing Reply Comments were mailed this 18th day of May, 1995 to the following:

Don Simpson	KO4TA	Woodstock, GA
Charles A. Albert, Jr.	KC6UFM	Fredericktown, MO
Jim Rinehart	WB9CEP	Indianapolis, IN
Jim Monahan	K1BNQ	Easton, CT
Bennett Z. Kobb	KC5CW	Arlington, VA
Stephen T. Bentley	WD4ITY	Forsyth, GA
Fred C. Adams	AC4UN	Inverness, FL
Sherwood D. Dudley	W4EWP	Lookout Mountain, TN
James W. Drummond	N5YSO	Shawnee, OK
Robert S. Bennett	W3WCQ	Towson, MD
Don West	KF9OE	Sheridan, IN
Gerald R. Gavin	NU3D	Glen Burnie, MD
Nelson Large	W4FQV	Salisbury, NC
Lawrence Macionski	WA2AJQ	Bluemont, VA
Mike Musick	N0QBF	Maryland Heights, MO
Thomas Clements III	W1ICH	Key West, FL
Kenneth P. Elsberry	WD4ERM	Valdosta, GA
Robert M. Beatty	WB4SON	West Warick, RI
Leonard A. Schachter	N3RPQ	Washington, DC
Robert E. Nelson	WD9HSE	Kerrville, TX
American Radio Relay League		Washington, DC
Carl Capps	N4TIE	Swansboro, NC
J. W. Morris	N4FFF	Nashville, NC

Signed: 

Frederick O. Maia, W5YI

¹⁰ The ARRL voice bulletins are extremely limited in duration. See Comments of ARRL at 3.