



July 6, 2015

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: WT Docket No. 13-301

Dear Ms. Dortch:

The National Public Safety Telecommunications Council (NPSTC) is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. Accordingly, NPSTC provides guidance on issues that can either negatively impact or benefit the operation of public safety communications.

In its Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding, the Commission proposes to remove restrictions and “harmonize regulations governing the operation of mobile devices on airborne aircraft across all commercial mobile spectrum bands...”¹ Such airborne use also would come under new requirements specified under Part 87 of the Commission’s rules.

In clarifying the bands considered to be commercial mobile spectrum bands for purposes of this rulemaking, the Commission listed a host of commercial mobile bands and included “SMR spectrum”

¹ *Expanding Access to Mobile Wireless Services Onboard Aircraft*, Notice of Proposed Rulemaking, WT Docket No. 13-301, released December 13, 2013.

within the bands 806-821/851-866 and 896-901/935-940 MHz.² Given that SMR spectrum is administered under Part 90 of the rules, the Commission proposed changes to §90.423 which addresses airborne use of systems licensed under Part 90. The NPRM proposes §90.423 of the rules be revised to read as follows:³

90.423 Airborne Operation of Mobile Devices

Devices using frequencies licensed under this rule part are prohibited from operating onboard airborne aircraft except as authorized by §87.205, *et seq.*

When drafting the NPRM’s proposed rule changes, the Wireless Telecommunications Bureau apparently failed to consider that §90.423 of the rules applies to airborne use of public safety spectrum and private land mobile spectrum, in addition to commercial SMR spectrum.

Public safety entities deploy equipment in low-flying aircraft on their licensed Part 90 spectrum to support law enforcement, emergency medical and firefighting operations on the ground. These are internal communications essential to public safety in protecting the public, not commercial mobile services made available to the public. The stated focus of the NPRM is clearly commercial mobile services, with no discussion of potential impact to public safety internal communications operations.⁴ Therefore, NPSTC believes that proposing changes to §90.423 in a way that would affect public safety airborne operations was unintentional.

However, if the changes to §90.423 as proposed in the NPRM are adopted, they would essentially prevent public safety airborne communications currently in use. The Part 87 sections referenced in the proposed revision of §90.423 are crafted with commercial mobile use by the public in mind. For example, these sections require an “airborne access system” for which §87.207(a)(iv) requires minimal emissions outside the aircraft cabin. If emissions are minimal just outside the aircraft cabin, they certainly would not be sufficient to sustain reliable communications with public safety personnel on the ground. In contrast, the current provisions of §90.423 allow public safety or private land mobile licensees to operate

² See NPRM footnote 8

³ See NPRM, Appendix A

⁴ While the NPRM includes a section entitled “Law Enforcement and Public Safety” that section relates to the Communications Assistance for Law Enforcement Act (CALEA) requirements pertinent to commercial mobile services, as well as to any potential air safety and security issues. See NPRM at para. 75-77.

on board aircraft on a secondary basis to land-based systems with transmitters up to 10 Watts power on aircraft that regularly fly at altitudes below 1.6 kilometers (1 mile).

In view of the above, NPSTC urges the Commission to ensure that any changes to §90.423 apply only to commercial SMR operations licensed under Part 90 of the rules. The current provisions of §90.423, Operation On Board Aircraft, paragraphs (a) through (d) as shown in the attachment to this letter, should be maintained for airborne public safety and private land mobile operations.

Respectfully submitted,



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Attachment

Attachment

Existing Rules under which public safety and private land mobile operations on board aircraft are regulated.

§90.423 OPERATION ON BOARD AIRCRAFT

(a) Except as provided in paragraphs (b), (c), and (d) of this section, and except as may be provided in other sections of this part with respect to operation on specific frequencies, mobile stations first authorized after September 14, 1973, under this part may be operated aboard aircraft for air-to-mobile, air-to-base, air-to-air and air-to-ship communications subject to the following:

- (1) Operations are limited to aircraft that are regularly flown at altitudes below 1.6 km (1 mi) above the earth's surface;
- (2) Transmitters are to operate with an output power not to exceed ten watts;
- (3) Operations are secondary to land-based systems;
- (4) Such other conditions, including additional reductions of altitude and power limitations, as may be required to minimize the interference potential to land-based systems.

(b) Exceptions to the altitude and power limitations set forth in paragraph (a) of this section may be authorized upon a showing of unusual operational requirements which justify departure from those standards, provided that the interference potential to regular land-based operations would not be increased.

(c) Mobile operations aboard aircraft in the services governed by this part, under licenses in effect September 14, 1973, may be continued without regard to provisions of paragraph (a) of this section, as follows:

- (1) Operations may be continued only for the balance of the term of such licenses if aircraft involved are regularly flown at altitudes greater than 1.6 km (1 mi) above the earth's surface.
- (2) Operations may be continued for one additional renewal license term if the aircraft involved are regularly flown at altitudes below 1.6 km (1 mi) above the earth's surface.

(d) Operation of radiolocation mobile stations may be authorized without regard to limitations and conditions set forth in paragraphs (a), (b), and (c) of this section.