

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

RECEIVED

JAN 19 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
1998 Biennial Review -) WT Docket No. 98-182
47 C.F.R. Part 90 - Private Land) RM-9222
Mobile Radio Services)
)
)
Replacement of Part 90 by Part 88) PR Docket No. 92-235
to Revise the Private Land Mobile)
Services and Modify the Policies)
Governing Them)
and)
Examination of Exclusivity and)
Frequency Assignment Policies of the)
Private Land Mobile Services)

To: The Commission

COMMENTS

The law firm of Blooston, Mordkofsky, Jackson and Dickens, on behalf of its private radio clients and pursuant to Section 1.415 of the Federal Communications Commission's Rules, hereby submits these Comments in support of the above-captioned Notice of Proposed Rulemaking ("NPRM"). As discussed below, the Commission's proposed modifications will serve the public interest by promoting spectrum efficiency, eliminating confusion surrounding certain rules governing the Private Land Mobile Radio Services ("PLMRS"), 47 C.F.R. Part 90 ("Part 90"), and reducing the regulatory burden and administrative costs which inhibit Part 90 licensees and applicants.

1. **The frequencies listed in Rule Section 90.35(c)(60) should be made widely available for a variety of uses.**

Section 90.35(c)(60) of the Commission's rules, which provides that certain frequencies in the 450-470 MHz band may be used only for cargo handling operations, imposes a limitation which is unnecessary and may even lead to a waste of valuable spectrum. Currently, there is an insufficient number of low power channels available to private radio users, and only a limited demand for channels to be used for shore-to-vessel/dockside communications. Thus, to promote spectrum efficiency, the Commission should make the shore-to-vessel/dockside frequencies listed in Rule Section 90.35(c)(60) available for any low power use, in locations other than dock and cargo handling areas. It is important, however, to maintain the low power status of these frequencies in order to protect the on-going communications in dockside areas from potential interference caused by high power, non-cargo operations. In addition, there are relatively few low power channels remaining, so the wider use of the shore-to-vessel/dockside frequencies for low power use will be a valuable alternative.

2. **A ten-year license term for all Part 90 licensees will serve the public interest if the Commission's database accurately reflects the status of licensed stations.**

The Commission correctly recognized in its NPRM that a rule modification which provides for the extension of the license term for all Part 90 licensees from five to ten years will produce several public interest benefits. In particular, this rule change will minimize the administrative burden for the

Commission, and PLMRS applicants and licensees. A ten-year license term for all Part 90 licensees will not, however, serve the public interest if the Commission's database does not accurately reflect the status of licensed stations. Expired licenses that remain in the database clog the system and hinder the efficient utilization of spectrum. Therefore, the Commission should not extend the license term to ten years without first establishing a mechanism designed to ensure that abandoned stations, or stations that were never constructed, are promptly purged from the Commission's database.

3. **A twelve-month implementation period is appropriate for all Part 90 stations.**

The Commission should amend Sections 90.155(a) and (b) of its Rules to provide for a twelve-month implementation period for all Part 90 stations which are not seeking an extended implementation period. The standardization of the construction period will eliminate confusion and foster consistency in the Commission's rules. In particular, it will help to prevent the loss of licenses by licensees who misinterpret the Rules and construct their systems according to the wrong time frame. The twelve-month implementation period will also give Part 90 licensees the additional time needed to plan their systems and to consider the various types of equipment which can be utilized.

4. **Public safety licensees should be permitted to share their stations with public safety and Federal government entities.**

The Commission's proposal to amend Rule Section 90.179 to provide that public safety licensees may share their radio facilities with Federal government entities on a cost-shared, non-profit basis will enhance the public interest by reducing operational and implementation costs for public safety and Federal agencies, and by fostering cooperation among federal and local authorities who frequently encounter problems requiring their joint response.

5. **The Commission should utilize a special station class code to indicate whether a channel is protected.**

All trunked systems in the bands between 150 and 512 MHz should be given a land mobile service code of "YG" (trunked Industrial/Business Pool) or "YW" (trunked Public Safety Pool). If a particular frequency is protected, i.e., granted exclusivity either because the applicant obtained the necessary co-channel consent for exclusivity or because the frequency was unassigned within the area in which co-channel consent is required, the Commission should designate a special code for the station class to indicate its exclusive status.

6. **The elimination of the licensing requirement for low power radios will legitimize an accepted practice.**

The Commission should proceed with its plan to eliminate the licensing requirement for one-watt and two-watt, hand-held portable radios that operate on 154.570 MHz, 154.600 MHz, 467.850

MHz, 467.875 MHz, 467.900 MHz and 467.925 MHz, commonly referred to as "color dot" or "color star" frequencies. Since the majority of persons who purchase low power radios on these frequencies apparently do not, as required under the existing rules, apply for a license, eliminating the licensing requirement would legitimize a practice which has already been implicitly accepted by the private radio industry and the Commission. This proposed rule change, however, presents the danger that licensees on these frequencies will lose certain protections that are currently available to them. For example, in the absence of a station authorization requirement, frequency congestion problems may arise due to the lack of license information and public notice about low power operations. Another concern is that the Commission, by reallocating the frequencies from Part 90 to a radio service that does not require licensing, such as the Citizens Band, Low Power Radio, or Family Radio Services, may impose usage restrictions on low power radio users which would diminish the usefulness of these frequencies. For example, under the Commission's rules governing the Citizens Band radio service, frequencies may not be used for non-voice communications. In light of these concerns, the Commission should confer a grandfathered status to existing licensees. If existing licensees can retain their status and protections, the elimination of the license requirement will likely serve the public interest by eliminating what appears to be an unnecessary regulatory burden.

In light of the foregoing, the law firm of Blooston, Mordkofsky, Jackson & Dickens supports the Commission's proposals but requests that the Commission address the foregoing concerns.

Respectfully submitted,

By: 

John Prendergast
Laura Grasso
**Blooston, Mordkofsky, Jackson
& Dickens**
2120 L Street, N.W., Suite 300
Washington, D.C. 20037
(202) 828-0830

January 19, 1999