

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

1998 Biennial Regulatory Review --)	WT Docket 98-143 /
Amendment of Part 97 of the Commission's)	
Amateur Service Rules)	
)	
FCC Report and Order)	FCC Report & Order 99-412
Released December 30, 1999)	

To: The Commission

ATTN: Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**REPLY TO OPPOSITION BY CARL R. STEVENSON (NO CODE INTERNATIONAL)
TO THE PETITION FOR PARTIAL RECONSIDERATION
FILED BY ALAN J. WORMSER, FREDERICK V. ADSIT, AND MICHAEL J. DINELLI**

DATE: May 12, 2000

On behalf of

Alan J. Wormser, N5LF
4805 Rustown Drive
Austin, TX 78727
Phone: (512) 345-1045
n5lf@arrl.net

Frederick V. Adsit, NY2V
117 Ferris Ave.
Syracuse, NY 13224
Phone: (315) 446-2275
ny2v_fred@juno.com

Michael J. Dinelli, N9BOR
9423 Kolmar Ave.
Skokie, IL 6007-1321
n9bor@arrl.net

Submitted by



Alan J. Wormser

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INTRODUCTION

1. In accordance with 47 CFR §1.429, we hereby reply to Carl R. Stevenson's May 2, 2000 opposition, which Stevenson filed on behalf of No Code International (NCI), addressing our Petition for Partial Reconsideration (dated February 22, 2000) relating to FCC Report and Order 99-412 (R&O) and WT Docket 98-143. In addition, we affirm that we have served Stevenson with a copy of our reply as required by the same regulation.

2. We are astounded by the insulting, unbecoming, and inappropriate nature of Stevenson's opposition comments. He peppers his opposition with gratuitous name-calling and ridicule. Rather than adding anything new to the discussion, he merely reiterates his previous comments to the Commission. Furthermore, he only offers to contradict us without presenting any substantive arguments of his own.

3. NCI misrepresented itself to the Commission throughout these proceedings: Rather than an international 'organization,' it appears to be nothing more than an e-mail list and a web page. Fred Maia is both the administrative contact and the billing contact of NCI's domain name, "nocode.org"¹. Maia is also the owner of W5YI-VEC, Inc., wherein he is an agent of the Commission as one of 17 FCC-certified Volunteer Exam Coordinators (VEC) in the US. We note that his VEC program has been the subject of numerous FCC investigations of ethics violations in recent months². He is also one of four members of the Question Pool Committee, a fact very relevant to this proceeding, as is his connection with NCI. Until a few weeks after the Report and Order was issued he was NCI's Executive Director. We are therefore disturbed that NCI kept Maia's role as its leader well-hidden from the official proceeding. We know of no

¹ See Exhibit A, which is the result of an 'Internic' search on the domain name of NCI's web page. It indicates a billing address in California while the domain name itself is registered to Maia. Past comments on the Internet by Stevenson indicate that Maia finances NCI from personal funds or those of W5YI Group, Inc.

² See, for example, the ARRL Letter, Vol. 19 (Exhibit B, attached)

other organization in this proceeding that purposefully concealed or downplayed the identity of its executive director.

GENERAL COMMENTS

4. NCI (Stevenson) asserts that our petition does not address new or procedural issues.³ He is wrong. We do indeed discuss significant issues that the R&O either did not address or that were addressed inadequately. For example, our petition points out a flaw in the R&O regarding enforcement of Article S25.5⁴ of the international radio treaty⁵. Our petition also states *with particularity the respects in which the action taken should be changed*⁶.

5. NCI (Stevenson) asserts that only a minority of the commenters favored increased technical difficulty of written tests in exchange for the lowered telegraphy requirement⁷. He is wrong. Of those commenters who addressed this issue, *the general consensus was that such compensation was warranted*. Those comments are in the public record.

TECHNICAL STANDARDS ON WRITTEN EXAMS

6. In NCI's comments,⁸ Stevenson misread our petition. We never assert that the *intent* of the Commission is to lower technical standards of the Amateur Service. On the contrary, we applaud the Commission for wishing to focus on technical aspects of the service.⁹ However, we

³ NCI Opposition Comments, at 3 and 6.

⁴ Wormser, Adsit, and Dinelli petition, at 40 through 43.

⁵ International Telecommunications Union, *Radio Regulations* (Geneva 1979).

⁶ In accordance with 41 CFR §1.429(c).

⁷ NCI Opposition Comments, at 11.

⁸ NCI Opposition Comments, at 9 and 12.

⁹ Wormser, Adsit, and Dinelli petition, at 12.

point out where we believe the R&O contradicts its own goal by reducing the technical standards of the written tests.¹⁰

7. We resent NCI's (Stevenson's) accusation that our petition "blatantly misrepresents" anything.¹¹ He is wrong, his accusation is false, and its tone is inappropriate.

8. NCI argues that there is no support for our contention that the number of test questions in the question pool will be reduced under the R&O.¹² However, our petition discusses that issue clearly, and with a detailed analysis. There is no need to reiterate it here.

9. NCI asserts that, "there is no limit to the number of questions in the question pool." Yet, historically, the number of questions in the pool have always remained very close to the 10:1 ratio that is the regulatory **minimum**. NCI also asserts that we "offer no proof" that the question pool will be reduced. Perhaps a recent quote by NCI's former Executive Director, Fred Maia, who is also a member of the Question Pool Committee, will clarify that issue: In January 2000, Maia said, "Since we need a lot less questions in order to conform to the ten times limit, you will see that the question pools in total will be greatly reduced."¹³

10. NCI asserts that the amateur radio license is not a 'graduation certificate' and therefore requires only the bare minimum of qualifications before an applicant is given amateur radio privileges. But NCI misses the point of licensing prerequisites: **the privileges of an amateur radio license bring with them certain responsibilities to neighbors, to served emergency organizations, to global communications services, and to the proper function of**

¹⁰ The ARRL Letter, Vol. 19, No. 5. David Sumner, ARRL Executive Vice-president states "Many ARRL members believe there is a widening gap between what the FCC requires amateur licensees to know and what it takes to be truly knowledgeable about Amateur Radio. See Exhibit B for full text of the article.

¹¹ NCI Opposition Comments, at 10

¹² NCI Opposition Comments, at 13 through 19.

¹³ Frederick O. Maia, interviewed January 21, 2000 by Hap Holly, *Rain Report* (<http://www.rainreport.com>)

station equipment¹⁴. Even for a Technician Class license, the easiest license to obtain, the licensee is given access to full privileges above 30 MHz. This includes all communications modes at output powers as high as 1,500 watts, satellite access, wide-area linked repeater systems, TV, packet nodes, and the ability to use non-type-accepted equipment -- a situation unique to the amateur radio service. Common problems of such powerful transmitting equipment used in the home station include interference to neighbors' TVs, stereos, and telephones; generating 'dirty' signals on frequencies not assigned to the amateur bands; safety issues involving RF radiation; the potential for burns or electrocution; and lightning protection. For licensees of even the lowest level license, the privileges granted must be paired with a **prerequisite** level of technical skill commensurate with the privileges. This goes well beyond a bunch of folks with walkie-talkies. The amateur service must maintain a pool of technically adept licensees who enter the service through the **prerequisite level of knowledge demonstrated by the written license exams**.

11. NCI recommends that instead of insisting on FCC-mandated technical standards, we simply submit suitable test questions to the Question Pool Committee¹⁵. But since the R&O eliminates any accountability to the public regarding the test syllabus, this solution is not feasible. The Question Pool Committee is a private entity and is under no obligation to anyone but the four persons who sit on that committee.¹⁶ At the same time, the R&O removes all FCC oversight of the question pool content.

¹⁴ 47 CFR §97.101(a), and §97.103 clearly puts the responsibility of maintaining properly working equipment and record keeping on the amateur radio licensee or the licensed control operator designated by the licensee. Our petition asks how the FCC expects to maintain a pool of licensees with technical expertise by granting licenses to people who cannot even pass a basic electronics test.

¹⁵ NCI Opposition Comments, at 22.

¹⁶ Frederick O. Maia, interviewed January 21, 2000 by Hap Holly, *Rain Report* (<http://www.rainreport.com>): "I do want to comment on difficulty. It's the question pools committee's belief that we should make it reasonably easy to enter amateur radio, but reasonably difficult for them to achieve the top of the line. If I'm to find that because the

REPEATING FAILED TEST ELEMENTS AT THE SAME EXAM SESSION

12. NCI (Stevenson) contends that the Commission could not address our original comments, regarding candidates repeating test elements, because of the high number of comments received. However, as part of a public hearing process, the Commission is required to consider **each and every** relevant comment received within the established deadlines and comment periods. Our comments (i.e., those of each of the authors, plus that of Tim Billingsley) were *among the very few comments filed that were mailed to the Commission in a formal, legal format; and that answered very specifically each and every question* presented in the original NPRM WT Docket 98-143. Those facts alone would make our comments notable.

13. NCI (Stevenson) points out that taking the same exact exam at the same exam session is not allowed under the regulations. But that is irrelevant to our petition. We discuss the practice of repeating *test elements*, not the same exact tests. We consider such "do-overs" to be a severe flaw in testing candidates for any license, certificate, or test of knowledge and skill.

AMATEUR EXTRA CLASS TELEGRAPHY EXAM

14. NCI (Stevenson) makes 'apples and oranges' comparisons between the growth rates of the Amateur Extra license class and the apparent rate of increase of the no code Technician license class. Since the no code Technician was created in 1991 and the license term is 10 years, none have ever been renewed. The FCC, ARRL, and NCVEC keep no statistics on licensee dropout rates, so the only way to track this is through renewals. In contrast, the Amateur Extra

FCC is permitting the question pool committee to determine the topics now. They are no longer mandated in the part 97 rules. You're going to find that it's going to be a change of emphasis. The entry level VHF, which is the technician and the entry level HF, will which is the general (sic), will be more oriented to procedures, operating, rules, regulations, practices, electrical and RF safety, with some electronics questions. The general class will have more electronics questions and is my belief that these two examinations will be somewhat easier. We found that almost all amateurs operating VHF and HF at the beginning levels are using commercial equipment and they don't really have to know a lot about circuits and electronics."

Class license has been in existence since 1951 and has a long renewal history. So, the most accurate figures can be applied only to the Amateur Extra Class. The apparent growth rates for no code Technician are wildly inflated and we are unaware of any statistically valid analyses of growth rates or retention that have controlled for these variables in comparing the two classes. NCI (Stevenson) offers no evidence to contradict the fact that the Amateur Extra class has grown appreciably despite its 20-wpm telegraphy exam. In light of these points, our petition's comparison of growth rates is conservative. Thus, contrary to the R&O, the 20-wpm telegraphy exam does not appear to be a significant barrier to advancement.

15. NCI (Stevenson) criticizes telegraphy testing on the basis of its use as a filter. Our petition *does not address that aspect*, and we accept the FCC's past statements that that argument is moot. Instead, we assert that the telegraphy exam is yet another significant **prerequisite** skill that is exceedingly useful for emergency work *in the amateur service* on HF when SSB voice communications fail. We go into depth on that topic in our petition as well as in our comments and reply comments--and we give very specific examples from recent, real-life emergencies. From Stevenson's comments, he does not appear to have any experience in HF emergency communications. In contrast, each of the petition authors have years of first-hand experience.

'TECHNICIAN PLUS' DESIGNATION IN THE FCC DATABASE

16. Stevenson filed an earlier opposition in January; prior to publication of the R&O and new regulations in the Federal Register. In that version, he vigorously opposed retaining the "Technician Plus" designation in the FCC license database.

17. Now, Stevenson wholeheartedly supports it. His volatility is confusing, but we are glad to have his support this month.

CONCLUSION

18. We find the comments of NCI to be offensive and unbecoming for the present legal proceeding. There is the appearance of a conflict of interest as Frederick O. Maia is Vice-Chairman of the Question Pool Committee, the former *Executive Director of NCI* and a marketer of license study materials.¹⁷ We are disturbed by the fact that NCI hides Maia's involvement as its former Executive Director and financier. That Maia is also an agent of the Commission in administering commercial and amateur radio licensing exams appears to us to be problematic.

19. We recommend that our petition be reviewed on its own merit. Nothing in NCI's (Stevenson's) comments in any way alter the points we made in our petition. Stevenson offers no examples in support of his views, we offered many examples to support ours. He apparently has no experience with HF emergency communications. In contrast, we petitioners are skilled emergency volunteers, as well as experienced amateur licensees, mentors, volunteer examiners.

20. We recommend that the Commission **dismiss** NCI's opposition comments. We respectfully request that the Commission implement our petition's recommendations in order to maintain an Amateur Radio Service that is a **fundamentally technical** service.

¹⁷ The W5YI Group, Inc.; W5YI VEC Group, Inc. <http://www.w5yi.org>

Exhibit A
Evidence of Fred Maia's Connection to
No Code International's *nocode.org* Domain Name

The following information was the result of an Internic search (a "whois" search) of domain name ownership and sponsorship. The search was conducted on May 10, 2000, as indicated by the date near the bottom of the report.

Registrant:

No-Code International (NOCODE2-DOM)
P.O. Box 70152
Pt. Richmond, CA 94807-0152
USA

Domain Name: NOCODE.ORG

Administrative Contact, Technical Contact, Zone Contact, Billing Contact:

Maia, Fred (FM304) 706-3743@MCIMAIL.COM
W5YI Group, Inc
2000 E. Randol Mill Rd.
Suite 608A
Arlington, TX 76011
(817) 860-3800

Record last updated on 24-Dec-1998.
Record expires on 28-Mar-2001.
Record created on 27-Mar-1997.
Database last updated on 10-May-2000 06:53:29 EDT.

Domain servers in listed order:

NS.SPINDLE.NET	204.251.22.1
NS1.NKN.NET	204.0.159.30

Exhibit B
First few pages of the ARRL Letter, Vol. 19, No.5

The ARRL Letter
Vol. 19, No. 5
February 4, 2000

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- =>To subscribe, unsubscribe, or change your e-mail delivery address:
see "How to Get The ARRL Letter," below
 - =>Delivery problems (ARRL member direct delivery only!):
letter-dlvy@arrl.org
 - =>Editorial questions or comments: Rick Lindquist, N1RL, rlindquist@arrl.org
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 - =>The ARRL Web Extra: <http://www.arrl.org/members-only/extra>
-

IN THIS EDITION:

- * +League to inaugurate Certification Program
- * +FCC widens W5YI-VEC audit
- * +ARRL asks FCC to deny Kenwood petition
- * +ARRL, IARU represent ham radio at ITU session
- * +Swan, Atlas Radio founder Herb Johnson, W6QKI, SK
- * What's the Frequency, Dennis?
- * Solar update
- * **IN BRIEF:**
 - This weekend on the radio
 - +Revised question pools now available
 - Court of Appeals upholds FCC preemption on RFI issues
 - Russia launches supply ship to Mir
 - +Ham was aboard Flight 261
 - Memphis-area Amateur Radio clubs welcome ARRL Board
 - On-line Amateur Radio practice tests
 - Restructuring boosts VE session attendance
 - American Lung Association seeks hams for 2000 "Big Ride"

+Available on ARRL Audio News

ARRL BOARD ENDORSES CERTIFICATION PROGRAM

The ARRL Board of Directors has approved the development and implementation of an initiative to promote self-education by radio amateurs. The new ARRL Certification Program will aim to inspire amateurs to continue acquiring technical knowledge and operating expertise beyond that

required to become licensed and give them a chance to test their own limits. Following up on the "2010 Vision" discussions at last July's Board meeting, ARRL Executive Vice President David Sumner, K1ZZ, presented the broad strokes of the Certification Program during the Board's January 21-22 meeting in Memphis.

At this point, the Certification Program only exists as a concept, with the details to be worked out, but plans call for having the program in place by later this year. The first step in putting the program in place will be to solicit the ideas of ARRL members, via a Web-based message board, on appropriate topics to be included in the initial rollout. "The idea is to make this program what members want it to be, and not something imposed from 'on high,'" Sumner said.

"Many ARRL members believe there is a widening gap between what the FCC requires amateur licensees to know and what it takes to be truly knowledgeable about Amateur Radio," he continued. "Whether or not you agree, it's certainly true that those of us who took our FCC exams years ago have never had to demonstrate an understanding of current technology. We could use a new challenge."

The new Certification Program will offer participants an opportunity to earn credentials at various levels of depth and difficulty in different courses of study--perhaps in such areas as ionospheric propagation, receiver design, and Morse code proficiency. Sumner said the ARRL should and will continue to encourage the development of Morse code proficiency beyond the basic HF licensing requirements. He observed that the standards for ARRL certification could be more stringent and more uniform than those used for FCC exams.

Sumner said he sees the certification program not only as a welcome opportunity for individual self-development but a response to the perceived "dumbing down" of Amateur Radio qualifications--especially in the aftermath of the FCC's recently announced license restructuring plan. While the plan was not developed directly in response to restructuring, its timing could not be better, Sumner said, conceding that the restructuring debate "has moved it up the agenda."

As envisioned, the program would be largely self-supporting, but startup costs would be funded from the Exceptional Merit Stipend established by the late Ethel Smith, K4LMB. The Certification Program will be dedicated to her memory. Smith--who helped found the Young Ladies Radio League and served as its first president--died in 1997, leaving the bulk of her estate to the ARRL.

Sumner says a Web-based message board will be set up in a few weeks to gather input from members in terms of specific programs and areas of study or skills development they would like to see become part of the voluntary certification program. The League plans to seek outside expert input to assist in setting the knowledge or performance threshold at the optimal level.

The program likely will include some professional development aspects and could include the granting of Continuing Education Units--CEUs. The League also is seeking cooperative arrangements with related professional organizations. It already has a memorandum of understanding with the National Association of Radio-Television Engineers and has approached the Society of Broadcast Engineers for a similar agreement.

The voluntary certification program dovetails neatly with goals expressed by the League's new President Jim Haynie, W5JBP. Following his election January 21 in Memphis, Haynie said he favors even greater promotion of Amateur Radio, especially among youth and in schools, as well as programs to rekindle interest and activity among current licensees.

FCC EXPANDS W5YI-VEC AUDIT

Citing complaints concerning the administration of Amateur Radio examinations, the FCC has expanded an audit of the W5YI-Volunteer Examiner Coordinator operated by Fred Maia, W5YI, in Dallas, Texas. In a February 2 letter, FCC Special Counsel for Amateur Radio Enforcement Riley Hollingsworth said the complaints "allege the selling of both original licenses and upgrade licenses in Puerto Rico and the Virgin Islands" by W5YI-VEC volunteer examiners.

The eight-page FCC letter also cites an ongoing probe begun late last fall into three 1999 W5YI-VEC exam sessions in South Carolina and seeks additional details from Maia. At the South Carolina sessions, Hollingsworth said, VEs have filed statements claiming their names were forged on session documents by the W5YI session manager. The FCC says a session manager's license apparently was upgraded to Amateur Extra, an unannounced "sub session" was held after a regular VE session, and a General class session manager administered an Extra class examination.

Maia, who's been cooperating in the FCC's South Carolina probe, told the ARRL that he was surprised, confused, and "a little discouraged" to learn that the FCC had expanded its audit. He suggested that the FCC might be acting on the basis of "incorrect information" and said he's not aware that anyone ever paid for any licenses through a W5YI-VEC volunteer examiner.

In December, Maia conceded that there was reason to believe that W5YI-VEC paperwork may have been forged in South Carolina, that some volunteer examiners actually were impostors, and that one examiner also was an examinee.