

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Biennial Regulatory Review -- Amendment of	)	WT Docket No. 98-20
Parts 0, 1, 13, 22, 24, 26, 27, 80,	)	
87, 90, 95, 97, and 101 of the Commission's Rules	)	
to Facilitate the Development and Use of the	)	
Universal Licensing System in the Wireless	)	
Telecommunications Services	)	
	)	
Amendment of the Amateur Service Rules to	)	WT Docket No. 96-188 ✓
Authorize Visiting Foreign Amateur Operators	)	
to Operate Stations in the United States	)	RM-8677
	)	
Amendment of Part 95 of Commission's Rules	)	RM-9107
to Allow Organizational Licensing in the GMRS	)	

## SECOND MEMORANDUM OPINION AND ORDER

**Adopted:** July 31, 2000

**Released:** August 7, 2000

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

### I. INTRODUCTION

1. In this *Second Memorandum Opinion and Order*, we address a petition for reconsideration filed by David B. Popkin on November 1, 1999,<sup>1</sup> of the Commission's *Memorandum Opinion and Order on Reconsideration*<sup>2</sup> in the Universal Licensing System (ULS) proceeding.<sup>3</sup> The Petition raises two issues that the Commission addressed previously in the *ULS Reconsideration Order*: our collection of Taxpayer Identification Numbers in furtherance of the Debt Collection Improvement Act and the reciprocal operating authority provisions in Section 97.107 of our Rules. In this *Second Memorandum Opinion and Order*, we dismiss the Petition as repetitious.

### II. BACKGROUND

2. In the ULS proceeding, the Commission consolidated, revised, and streamlined its rules

<sup>1</sup> David B. Popkin, *Petition for Reconsideration* (filed Nov. 1, 1999) (Petition).

<sup>2</sup> Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Service, WT Docket No. 98-20, *Memorandum Opinion and Order on Reconsideration*, 14 FCC Rcd 11476 (1999) (*ULS Reconsideration Order*).

<sup>3</sup> The proceeding also included the examination of the licensing of visiting foreign amateur operators WT Docket No. 96-188, as noted in the above caption.

governing license application procedures for radio services licensed by the Wireless Telecommunications Bureau (WTB or Wireless Bureau). In conjunction with the rule changes adopted in the September 18, 1998, *Report and Order*,<sup>4</sup> the Commission established the ULS. The ULS is an integrated database and automated processing system developed to facilitate electronic filing of wireless applications, licensing information, and public access to such information for all wireless radio services.<sup>5</sup> Subsequently, the Commission adopted a *Memorandum Opinion and Order on Reconsideration* addressing various petitions that were filed in response to the *ULS Report and Order*.

3. As part of the ULS proceeding, the Commission addressed the applicability of the Debt Collection Improvement Act (DCIA)<sup>6</sup> to applicants and licensees in radio services administered by the WTB. The DCIA requires, *inter alia*, that each federal agency collect the Taxpayer Identification Number (TIN) of any person doing business with that agency (which is a Social Security Number (SSN) in the case of an individual), and was adopted as part of an effort to increase the government's effectiveness in collecting debt from private entities. The Commission concluded that amateur service examinees and licensees are "doing business" with the Commission under the provisions of the DCIA, and, thus, are subject to the TIN disclosure requirement.<sup>7</sup>

4. The ULS proceeding also represented a major consolidation and streamlining of the rules that affect WTB-administered services. One rule that the Commission modified in this regard is Section 97.107 in its amateur service radio rules, 47 C.F.R. § 97.107, which sets forth the means by which citizens of foreign countries who are licensed by their home country obtain reciprocal authority to operate in areas subject to FCC jurisdiction.<sup>8</sup> Section 97.107 now grants citizens of foreign countries who hold amateur service authorizations issued by their home country authority, by rule, to operate amateur radio facilities in areas subject to FCC jurisdiction. However, this benefit is only available if a multilateral or bilateral reciprocal operating arrangement to which both the United States and the foreign citizen's respective government are parties is in effect and allows amateur service operation on a reciprocal basis.<sup>9</sup> Section 97.107 defines the scope of the foreign citizen's authority within areas subject to FCC jurisdiction as the operating terms and conditions of the license issued by the foreign citizen's government,<sup>10</sup> but not to exceed the privileges of an FCC-granted Amateur Extra Class license.<sup>11</sup> Previously, foreign citizens were required to file FCC Form 610-A and receive an additional permit from the U.S.<sup>12</sup> Thus, the revision to

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<sup>4</sup> Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Service, WT Docket No. 98-20, *Report and Order*, 13 FCC Rcd 21027 (1998) (*ULS Report and Order*).

<sup>5</sup> See Commission Adopts Rules to Implement Universal Licensing System for Wireless Services, *News Release*, Report No. WT 98-34 (WTB, Sept. 17, 1998).

<sup>6</sup> 31 U.S.C. § 7701.

<sup>7</sup> *ULS Reconsideration Order*, 14 FCC Rcd at 11489 ¶ 32.

<sup>8</sup> Petition at 3.

<sup>9</sup> 47 C.F.R. § 97.107.

<sup>10</sup> 47 C.F.R. § 97.107(b)(2).

<sup>11</sup> 47 C.F.R. § 97.107(b)(3).

<sup>12</sup> *ULS Report and Order*, 13 FCC Rcd at 21102 ¶ 172.

Section 97.107 did not change the operating terms or conditions of the foreign citizen's operating authority but rather, changed the means by which the foreign citizen's operating authority is granted by the FCC.

### III. DISCUSSION

5. Section 1.429(i) of the Commission's Rules provides, in pertinent part, that "[a]ny order disposing of a petition for reconsideration which modifies rules adopted by the original order is, to the extent of such modification, subject to reconsideration in the same manner as the original order. Except in such circumstances, a second petition for reconsideration may be dismissed by the staff as repetitious."<sup>13</sup> We find that Popkin raises two issues that have been fully addressed in the *ULS Reconsideration Order*, and therefore, we find that the instant petition should be dismissed pursuant to Section 1.429(i).

6. *Debt Collection Improvement Act*. In the *ULS Reconsideration Order*, the Commission denied petitions by Popkin and others<sup>14</sup> to rescind the requirement that examinees and licensees in the amateur service provide their SSNs to the Commission.<sup>15</sup> In his original petition, Popkin claimed that collection of SSNs was "inappropriate," and that the DCIA only applied to fee-based applications. The Commission disagreed, and upheld its conclusion that applicants and licensees in the Wireless Services are "doing business" with the FCC and are thus subject to the DCIA.<sup>16</sup> Under the instant petition, Popkin questions the Commission's conclusion that amateur radio operators are "doing business" for purposes of the DCIA. We note, however, that this issue has already been addressed within the context of the *ULS Reconsideration Order*.<sup>17</sup> Thus, we find this aspect of Popkin's petition to be repetitious and will dismiss it accordingly.

7. *Section 97.107*. Popkin also asks the Commission to reconsider the reciprocal operating authority provisions in Section 97.107 of its Rules, 47 C.F.R. § 97.107, to allow citizens of foreign countries who are licensed by their home country to operate on any part of a specific wavelength band to use all authorized frequencies within that band when operating in areas subject to FCC jurisdiction.<sup>18</sup> Popkin initially raised this issue in his petition for reconsideration of the *ULS Report and Order*.<sup>19</sup> In the *ULS Reconsideration Order*, the Commission reaffirmed its decision to authorize foreign citizen amateur radio operation by rule and concluded that the amateur radio issues raised by Popkin "...have been fully addressed in the *ULS Report and Order*, and that Popkin has failed to present any basis for their reconsideration."<sup>20</sup>

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<sup>13</sup> 47 C.F.R. § 1429(i).

<sup>14</sup> David B. Popkin, *Petition for Reconsideration* (filed January 11, 1999) at 1 (Popkin R&O Reconsideration Petition). See also American Radio Relay League Inc., *Petition for Reconsideration* (filed January 13, 1999).

<sup>15</sup> *ULS Reconsideration Order*, 14 FCC Rcd at 11489 ¶ 32.

<sup>16</sup> *Id.* See also *ULS Report and Order*, 13 FCC Rcd at 21089 ¶ 139.

<sup>17</sup> *ULS Reconsideration Order*, 14 FCC Rcd at 11489 ¶ 32.

<sup>18</sup> Petition at 3.

<sup>19</sup> Popkin R&O Reconsideration Petition at 3.

<sup>20</sup> *ULS Reconsideration Order*, 14 FCC Rcd at 11498 ¶ 61.

8. To the extent that Popkin asks that the Commission reconsider its rule changes that now permit foreign citizen authorization by rule, we reiterate the Commission's conclusion that these issues have already been addressed. Insofar as Popkin's petition asks that we evaluate the effect of the Commission's foreign citizen reciprocal authorization – that a citizen of a foreign country may not be able to operate on a particular wavelength band in FCC-regulated areas because such operation is not permitted in the foreign citizen's home country under international radio regulations – we conclude that such an analysis is outside the scope of the ULS proceeding. The means by which operating authority by foreign citizens is granted was modified in the ULS proceeding and, therefore, is subject to reconsideration. However, the underlying authority that we grant – whether by rule or licensing document – was not modified. Therefore, with respect to these provisions, Popkin seeks reconsideration of actions taken by the Commission prior to this docketed proceeding.

#### IV. CONCLUSION

9. As discussed above, the Commission previously considered the merits of Popkin's arguments within the context of the *ULS Reconsideration Order*, and Popkin raises no new issues that are based on rule modifications made by the Commission in the *ULS Reconsideration Order*. Accordingly, we conclude that there is no basis for us to entertain the subject petition.<sup>21</sup> As a result, we dismiss the Popkin Petition as repetitious pursuant to Section 1.429(i) of the Commission's Rules.

#### V. ORDERING CLAUSES

10. Accordingly IT IS ORDERED that, pursuant to Sections 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), and Section 1.429(i) of the Commission's Rules, 47 C.F.R. § 1.429(i), the petition for reconsideration filed by David B. Popkin is DISMISSED.

11. This action is taken pursuant to delegated authority granted under the provisions of Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau

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<sup>21</sup> For other Commission decisions dismissing petitions for reconsideration as repetitious, see Waivers of Section 90.621(b) of the Commission's Rules for Applicants in the Special Mobile Radio Service, *Order*, PR Docket No. 90-34, 8 FCC Rcd 7619 (1993), Investigation of Special Access Tariffs of Local Exchange Carriers, *Order on Further Reconsideration*, CC Docket No. 85-166, 6 FCC Rcd 76 (1991), and Amendment of Part 73 of the Commission's Rules to Permit Short-Spaced FM Station Assignments by Using Directional Antennas, *Order*, MM Docket No. 87-121, 7 FCC Rcd 2954 (1992). See also DCT Transmission, L.L.C., *Order on Reconsideration*, DA 00-800 (WTB PSPWD, rel. Apr. 10, 2000); Application of Plaincom, Inc., to Provide 39 GHz Point-to-Point Microwave Service in Waco, TX, *Order on Reconsideration*, DA 99-1816 (WTB PSPWD, rel. Oct. 29, 1999).