

reasoned determination, based on sound technical documentation, as to how to address the issues raised by ADiCorp.

I. BACKGROUND

The Petition highlights an issue of significant and growing public safety concern. As car manufacturers have improved sound-proofing in vehicles which now are sealed much of the year so passengers may enjoy heat during cool weather and air-conditioning during warm, it has become increasingly difficult for drivers to hear the sirens of approaching emergency vehicles or the whistle of an oncoming train. This problem obviously is exacerbated when the vehicle's car radio is on.

Midland is a small, privately held company whose principals have been actively engaged in developing a system for alerting drivers of approaching emergency vehicles or trains for more than five years. Like ADiCorp and several other companies, Midland determined that a system capable of sending a very brief alert to cars within a defined range of the emergency vehicle over the radio channels to which motorists already are listening would be an effective, efficient means of warning them of the approaching vehicle.

The Company was granted an experimental authorization by the FCC in March 1999 to test an electronic safety system that permits an emergency vehicle or train to override active radios in passenger cars in the immediate vicinity to warn them of its presence.³ It submitted timely reports to the FCC and, in February 2000, the Commission approved a modification of Midland's experimental authority to permit further system testing. The reports associated with that testing also were submitted to the FCC.

Midland's efforts in this area have been supported actively by the National Research

³ Station KJ2XBV, Facility ID No. 92033.

Council Transportation Research Board of the National Research Council of the National Academy of Sciences, the Federal Highway Administration and the Federal Railroad Administration, organizations with a keen interest in reducing the number of deaths and injuries caused each year because of driver-failure to notice the sirens or whistles of approaching emergency vehicles or trains. The Company hoped to undertake additional testing in 2003, and specifically to test the system on locomotives at unguarded railway crossings, but its request for further experimental authority was denied by the Media Bureau on October 17, 2003.⁴ The Midland Dismissal Letter questioned certain of the technical parameters of the Company's experimental request, objected to any *de minimis* override of a broadcast transmission even if agreed to by the affected broadcasters as proposed by Midland, and expressed concern about the potential impact of such testing on the Emergency Alert Service ("EAS"). It also noted that such a system would not be of use to drivers who were not listening to local radio stations at the critical moment. A similar letter was sent to AlertCast Communications, LLC ("AlertCast") on that same date, dismissing its request for experimental authority.⁵ AlertCast also is working on developing an EVSS-type alerting system. A request from Safety Cast Corporation for an experimental authorization for a similar application was dismissed on October 22, 2003, citing potential interference to certain broadcast stations.⁶

II. THE FCC SHOULD SUPPORT ADDITIONAL TESTING OF EMERGENCY ALERT SYSTEMS THROUGH APPROVAL OF PROPERLY DEFINED EXPERIMENTAL AUTHORIZATIONS BEFORE CONSIDERING ADOPTION OF A NOTICE OF PROPOSED RULE MAKING.

⁴ See Letter to Elizabeth R. Sachs, Esq. from Edward P. De La Hunt, Associate Chief, Audio Division, Office of Broadcast License Policy, Media Bureau dismissing Application BEXP-20030313BRO ("Midland Dismissal Letter").

⁵ See Letter to Andrew S. Kersting, Esq. from Edward P. De La Hunt, Associate Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

⁶ See Letter to Mark Foss, President, Safety Cast Corporation from Edward P. De La Hunt, Associate Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

It is clear that the possibility of developing a better motorist-alert system has proven compelling to a number of federal organizations with responsibility for the safety of the driving public, including those driving the emergency vehicles. Midland and several other companies are actively engaged in developing and evaluating systems that have the potential for addressing this important public need. Much of their work can be and has been conducted in a laboratory environment. However, there is no substitute for the information that can be gleaned from carefully controlled, real world testing. Their efforts should be supported by the FCC through the approval of properly defined experimental authorizations.

The Company is confident that testing can be conducted without compromising the primary use of broadcast spectrum. For example, the most recent request submitted by Midland included tests that were to be conducted only with the concurrence of the affected broadcasters. Obviously those entities concluded that the public safety implications of the Company's work and the very brief, limited impact on their broadcasts favored their cooperation. Midland also believes that additional testing, both theoretical and real world, will help define how best to ensure that EAS retains its primary status even if the much more limited emergency alert systems contemplated herein are approved. These services share a common objective: They use the existing capabilities of radio broadcast facilities to promote public safety in a highly targeted manner. This shared goal should permit development of a complementary relationship between the services, and might if additional technical exploration is permitted.

The experimentation recommended by Midland has a solid public interest basis since the results would advance the knowledge of the FCC and the industry without any countervailing negative implications. Other companies, possibly including ADiCorp, also would benefit from the opportunity to conduct additional testing that would permit the verification or fine-tuning of

their proposed technical approaches. Upon conclusion of these activities, some or all of the companies interested in this area and the FCC will have a solid foundation on which to determine both whether the public interest warrants consideration of permanent rules for an emergency alert system along the lines proposed in the Petition and the optimal technical parameters of such a system. While Midland believes that the first question could be answered affirmatively even today, ADiCorp's Petition highlights that additional technical information needs to be developed and tested before the Commission should initiate a Notice of Proposed Rule Making for the contemplated service.

III. CONCLUSION

The public interest would be well served if a motorist-alert emergency system could be developed, consistent with protection of the primacy status of radio broadcast stations. However, for the reasons described herein, Midland urges the Commission not to adopt a Notice of Proposed Rulemaking along the lines requested by ADiCorp. Instead, the Company recommends that the FCC authorize properly defined requests for experimental authority that will permit the collection of sufficient technical and operational data to allow the Commission to craft proposed rules for an emergency alert system such as that being developed by Midland and others.

Respectfully submitted,

MIDLAND ASSOCIATES, INC.

/s/

By its attorney:
Elizabeth R. Sachs

Lukas, Nace, Gutierrez & Sachs, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 857-3500
February 12, 2004