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March 5, 2004

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Federal Communications Commission  
Office of Secretary

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Federal Communications Commission  
445 Twelfth Street, S.W., TW - 325  
Washington, DC 20554

PASSENGER  
VESSEL  
ASSOCIATION

RE: MariTel Sharing Proposal (DA 04-378) and (RM-10321)

10321

Ladies and Gentlemen:

The Passenger Vessel Association is the national organization representing U.S.-flagged and domestic passenger vessels of all types. We submit these comments on the MariTel Sharing Proposal for VHF Channels 87B and 88B.

PVA represents the interests of owners and operators of dinner cruise vessels, sightseeing and excursion vessels, ferries, private charter vessels, whalewatching operators, windjammers, gaming vessels, amphibious vessels, and overnight cruise ships. (Please understand that PVA's members do not include the companies that operate massive foreign-flagged oceangoing cruise ships that sail from U.S. ports.)

801 N. Quincy Street  
Suite 200  
Arlington,  
VA 22203

PVA currently have more than 550 vessel and associate members. Our 393 vessel members operate nearly 3,000 vessels. These vessel-operating members range from small family businesses with a single boat to companies with several large vessels in different locations to governmental agencies operating ferries.

Phone  
(800) 807-8360  
(703) 807-0100

**Your decision will affect our members, as many of them are required by the Coast Guard to carry and use AIS.**

Fax  
(703) 807-0103

PVA has an interest in the MariTel proposal because a substantial number of our vessel members will be required by Coast Guard regulations to carry and operate Automatic Identification System (AIS) equipment for purposes of national security and navigational safety. The Coast Guard is acting under Congressional direction pursuant to the Maritime Transportation Security Act of 2002 (46 *United States Code* 70114).

Email  
pva@vesselalliance.com

Under phase I of the Coast Guard's AIS rulemaking, a vessel with a capacity of 151 passengers or more operating within a Coast Guard-designated Vessel Traffic System (VTS) zone must install and operate an AIS unit on December 31, 2004. There are about a dozen VTS areas around the United States.

Website  
www.passengervessel.com

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An even greater number of domestic passenger vessel operators will likely be subject to the AIS carriage requirement under phase II of the Coast Guard rulemaking. Phase II is currently underway. The Coast Guard has asked what additional areas beyond the VTS zones should have AIS carriage requirements. It has also asked whether the 151-passenger threshold should be changed for purposes of an expanded AIS rule.

Since many of our members will participate in the Coast Guard-required AIS network under Phase I of the Coast Guard rule, and since many more will probably be similarly affected under Phase II of the rule, your decision on this issue will have major consequences for us.

**AIS is already costly to our vessel members.**

The Commission should understand that the AIS carriage requirement already is costly; it will impose a substantial economic burden on most PVA members subject to it, particularly because these operators tend to be relatively small businesses or governmental entities that must obtain much of their funding from taxpayers. In its cost estimates accompanying phase I of its AIS-carriage rulemaking, the Coast Guard estimated that the cost to purchase and install AIS for an individual vessel is \$9,330.

Furthermore, for the domestic passenger industry, the Coast Guard concluded that phase I of the AIS carriage rule has a profoundly negative cost-benefit ratio (0.25 benefit-cost ratio, or 25 cents of benefit for every dollar expended). In a letter to House Speaker Hastert dated October 22, 2003, Coast Guard Commandant Thomas H. Collins stated, "Strictly upon considered of monetized safety benefits, as measured through decreased collisions and the resulting decrease in injuries, mortalities, and pollution incidents, *the cost of AIS installation for the domestic fleet (those vessels that do not make international voyages) far outweighs the benefit* over a 10-year period (0.25 benefit-cost ratio) (emphasis added). This ratio results from the high costs of purchasing and installing the unit (an estimated \$9,330) and the types of marine casualties that AIS is expected to mitigate, where usually damage is not severe not is there loss of life."

The Coast Guard's cost estimates for phase I of its AIS carriage rule predicted no costs whatsoever to the vessel operator for payments to use the spectrum needed to transmit or receive communications from ship-to-ship or ship-to-shore. If our vessel operators are required to make such payments, how much worse will the cost-benefit of the AIS rule be in actuality?

**The impact of the MariTel proposal on PVA members is unclear.**

We have sought with limited success to understand MariTel's Cost Sharing Proposal.

MariTel's February 9 letter makes the following statement: "...MariTel proposes to share its licensed right to channels 87B and 88B for use by ship stations and the USCG at not cost." It also states, "Such use would be confined to USCG VTS operations and surveillance applications consistent with the Maritime Transportation Security Act of 2002 ("MTSA"). These statements suggest that vessel operators required to use AIS to comply with MTSA will not have to pay MariTel.

However, the MariTel letter also includes the following statement: "USCG use shall not be extended to other entities including, but not limited, to marine exchanges, port authorities, fleet operators, state and local government agencies, and non-USCG federal government entities." Does this mean that PVA vessel operators that are "fleet operators" or "state and local government agencies" (i.e., public agencies operating ferries) would have to pay MariTel for AIS usage?

Other questions arise from the MariTel proposal:

- Does it allow a vessel operator required to carry and use AIS within a Coast Guard VTS zone to use channels 87B and 88B without any payment to MariTel, regardless of whether the communication is considered to be for national security or navigational safety purposes?
- If phase II of the Coast Guard rulemaking expands the AIS carriage and use requirement to vessels operating outside of the VTS zones, will those vessels be able to use channels 87B and 88B without any payment to MariTel, regardless of whether the communication is considered to be for national security or navigational safety purposes?
- Does the proposal permit a vessel operator required to carry and use AIS to use channels 87B and 88B for ship-to-shore communications to the company's shore facilities (not the Coast Guard shore station) without payment to MariTel?

The Commission must consider that AIS is being required by the federal government to serve the national interest, not for the convenience of the users of the system.

In considering the MariTel Sharing Proposal, PVA urges the Commission to consider these essential principles:

- By enacting the Maritime Transportation Security Act of 2002, Congress has mandated extensive use of AIS by thousands of vessels in the U.S. maritime industry for the purpose of enhancing national security and promoting safety on American waterways. Thus, lawmakers have made a policy decision that AIS is in the interest of the nation as a whole.

- The Coast Guard is implementing this Congressional mandate in a two-phased rulemaking.
- Maritime users, including PVA members, will incur substantial costs to comply with the Congressional and Coast Guard mandates on AIS. These costs will not be reimbursed by the federal government.
- The capital costs of AIS will be burdensome to smaller vessel operators, particularly members of PVA.
- Even the limited scope of Phase I of the AIS rule has a severely negative cost-benefit ratio as applied to the domestic passenger vessel industry. We can reasonably expect the cost-benefit ratio of Phase II to have an even worse ratio, with respect to the domestic passenger vessel industry.
- The communications spectrum should be allocated in a manner that serves the national interest and supports critical national policies. Since Congress and the Coast Guard have ruled that an extensive AIS network is essential for purposes of national security and navigational safety, the FCC must ensure that sufficient spectrum is available to those vessel operators required to install and use AIS.
- Vessel operators required to participate in AIS by statute and Coast Guard rule must not be forced to pay for use of the necessary spectrum. The real benefit here is to nation as a whole, not to the individual vessel user.
- Imposing use charges for AIS transmissions by the domestic passenger vessel industry will worsen and exacerbate an already negative cost-benefit ratio of the Coast Guard's Phase I AIS rule.

In conclusion, the Commission should not approve the MariTel Cost Sharing Proposal if it finds that by doing so, the result will be that members of the Passenger Vessel Association required to participate in AIS by statute and Coast Guard rule will have to pay to use Channels 87B and 88B.

Sincerely,



Edmund B. Welch  
Legislative Director