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April 13, 2004

FILED ELECTRONICALLY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: RM-10821; Wireless Telecommunications Bureau Seeks Comment On
MariTEL, Inc. Petition for Declaratory Ruling and National Telecommunications
and Information Administration Petition for Rulemaking Regarding the Use of
Maritime VHF Channels 87B and 88B; NOTICE OF EX PARTE
PRESENTATION;**

**PR Docket No. 92-257; Amendment of the Commission's Rules Concerning
Maritime Communications; NOTICE OF EX PARTE PRESENTATION;**

**ET RM-10743; Commission's Rules to Promote the Use of VHF Public Coast
Station Frequencies; NOTICE OF EX PARTE PRESENTATION.**

Dear Ms. Dortch:

Pursuant to the provisions of Section 1.1206 of the rules and regulations of the Federal Communications Commission ("FCC"), MariTEL, Inc. hereby submits this letter summarizing its *ex parte* presentation in the above-referenced dockets. On April 12, 2004, Dan Smith, President and Chief Executive Officer of MariTEL, Inc., Jason Smith, Vice President of MariTEL, Inc., Donald DePriest, Chairman of the Board of MariTEL, Inc., and MariTEL, Inc.'s outside counsel, Russell H. Fox of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., met with Catherine Seidel, Jeffrey Tobias, Scot Stone, and Aaron Goldberger, all of the Wireless Telecommunications Bureau, to discuss the attached presentation.

Marlene H. Dortch

April 13, 2004

Page 2

Should there be any questions regarding this matter, please contact the undersigned directly.

Cordially yours,

/s/ Russell H. Fox

Russell H. Fox

Attachment

cc: C.I. Pearson (via FedEx)
Frederick R. Wentland (via FedEx)
Kathy D. Smith (via FedEx)
Catherine Seidel (via e-mail)
Aaron Goldberger (via email)
Scot Stone (via e-mail)
Jeffrey Tobias (via e-mail)



AIS Frequency Controversy

FCC Wireless Telecommunications Bureau

April 12, 2004

- MariTEL is ready to optimize the use of its spectrum assets:
 - Maritime data services
 - Private mobile radio services for marine and land based applications.
- USCG continues to intentionally stymie our efforts by:
 - Demanding 4+ narrowband channels immediately after the auction.
 - Refusing to negotiate in good faith to find mutually agreeable solutions.
 - Unilaterally petitioning the FCC to significantly alter the licensed rights of a spectrum auction winner without presenting any technical and financial analysis of various scenarios accepted internationally.
 - Attacking the WTB's order granting MariTEL a 2-year extension of the initial 5-year substantial service obligation.
 - Intentionally misrepresenting key information to the FCC & maritime industry.
- FCC must rescue MariTEL from the USCG's overt actions to take commercially licensed spectrum for their own use without respect for the rights granted to MariTEL.

1. **Myth:** Switching vessels to alternate channels and configurations is unsafe and is a risk to homeland security.

Truth: The international agencies have not determined the use of alternate configurations is unsafe. In the mandatory carriage requirements, the USCG stated that if channels 87B and 88B are unavailable in any particular area, they will remotely “telecommand” the vessels to switch to alternate channels. Japan has formally made the decision not to use channels 87B and 88B for AIS.

2. **Myth:** There is no need for “guard band” channels to support the configuration requested by the NTIA Petition.

Truth: Domestic and international industry experts have concurred with MariTEL’s conclusion that channels 27 and 28 will need to be “vacated” to “protect” the default AIS configuration. The USCG has previously ignored and denied this issue but recently admitted the need both formally and informally.

3. **Myth:** There is no interference to MariTEL’s licensed channels due to 25 kHz simplex AIS as desired by the USCG & the NTIA Petition.

Truth: All of MariTEL’s channels will be impacted for maritime services. The study recently released by the DoD’s Joint Spectrum Center revealed that AIS interference to the VPC channels is significant and widespread. In fact, the only way to overcome the AIS interference is to suffer a 50% throughput reduction using technology that has not yet been developed.

4. **Myth:** “Revisit the issue and select the channels and locations” means that the FCC can, consistent with FCC 80.371, approve the NTIA Petition without consent from the VPC licensee. “MariTEL has an obligation to accommodate AIS.”

Truth: FCC rules and the 3rd Report & Order specifically define that the FCC can revisit the issue and select the narrowband offset duplex channel pairs. Without the FCC’s clearly defined boundaries, no one would have participated in the auction if its rules could be construed for the USCG to encumber and undefined number and type of channels for AIS.

Opportunity to exchange messages with certain AIS devices in particular areas using explicitly confirmed FCC rights to channels 87B and 88B.

Non-AIS related opportunity to provision private and common carrier services to stations on land and water using up to (10) 25 kHz channel pairs and up to (15) 12.5 kHz channel pairs.

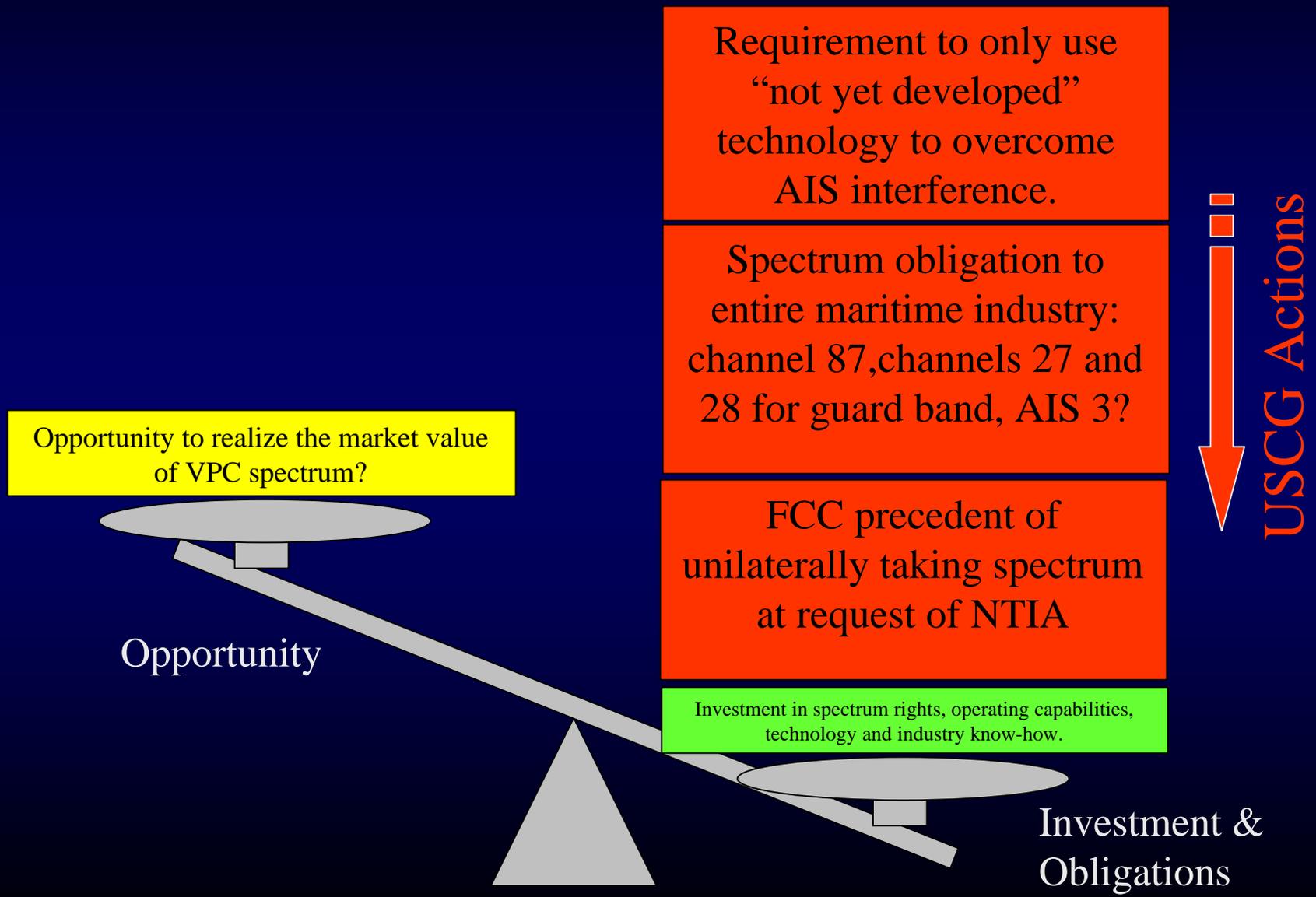
Obligation to negotiate with the USCG to make available up to (2) narrowband offset duplex channel pairs for PAWSS communications that, considering the designation of channel 228B for nationwide AIS, were only likely to be used in certain congested and narrow navigable waterways.

Investment in spectrum rights, operating capabilities, technology and industry know-how.

Opportunity

Investment &
Obligations

NTIA Petition is Inequitable





Suggested FCC Action

FCC Action: Uphold the rules set at auction and honor MariTEL's spectrum rights to allow market forces to quickly settle the "AIS Frequency Controversy".

Result: USCG appropriately analyzes and documents their technical and operational requirements for AIS and the cost/benefit relationship of various spectrum scenarios to make an appropriate decision between many alternatives that are all supported by international standards to support collision avoidance, vessel traffic services, and surveillance applications.

Some of the possible scenarios if the FCC supports MariTEL's rights and allows competitive market forces to dictate the most desirable spectrum utilization:

1. USCG employs up to two narrowband duplex channel pairs requiring no cost for VPC spectrum.
2. USCG supports the MariTEL Sharing Proposal, or some negotiated derivative, requiring no cost for VPC spectrum.
3. USCG supports the MariTEL Frequency Coordinator Proposal, or some negotiated derivative.
4. USCG negotiates with MariTEL for some alternative solution such as a lease, purchase, managed network service, etc.