



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, D. C. 20230

DEC 12 2003

04-344

Mr. John B. Muleta
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

RECEIVED

OCT 29 2004

Federal Communications Commission
Office of the Secretary

Re: DA 03-3369: Wireless Telecommunications Bureau Seeks Comment on MariTel, Inc.
Proposal to Serve as Automatic Identification System (AIS) Frequency Coordinator

Dear Mr. Muleta:

The National Telecommunications and Information Administration (NTIA) manages and authorizes the Federal Government's use of radio frequency spectrum. The Federal Communications Commission (Commission) recently issued a Public Notice seeking comments on a proposal submitted by MariTEL, Inc. (Maritel) to serve as the Automatic Identification System (AIS) frequency coordinator.¹ NTIA recently received letters from the U.S. Coast Guard (Coast Guard) and the St. Lawrence Seaway Development Corporation (SLSDC) that outline the adverse impact of MariTEL's proposal. For the reasons stated herein, and as more fully explained in the attached letters from the Coast Guard and SLSDC, NTIA urges the Commission to deny MariTEL's proposal to serves as the AIS frequency coordinator.

NTIA urges the Commission to allocate the frequencies at issue, Maritime VHF channels 87B and 88B, exclusively for AIS operations for the reasons set forth in NTIA's Petition for Rulemaking submitted to the Commission on October 24, 2003.² These channels are necessary in the United States for AIS operations essential for maritime safety and homeland security. Moreover, as the Commission notes in its Public Notice, the 1997 World Radiocommunications Conference allocated Channels 87B and 88B internationally for AIS. The use of these frequencies is also subject to a series of agreements between the U.S. Government and Canada.

¹"Wireless Telecommunications Bureau Seeks Comment on Maritel, Inc. Proposal to Serve as Automatic Identification System (AIS) Frequency Coordinator," *Public Notice*, DA 03-3669 (rel. November 19, 2003).

²See Letter dated October 24, 2003 from Fredrick R. Wentland, Associate Administrator, Office of Spectrum Management, NTIA to John B. Muleta, Chief, Wireless Telecommunications Bureau, RM010821; see also 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, *Public Notice*, DA 03-3585 (November 7, 2003).

No. of Copies rec'd 2
List ABCDE

Moreover, there is no need for an AIS coordinator. As noted in the letters from the Coast Guard and SLSDC, there would be no value provided to the maritime community by an AIS frequency coordinator. Even if such a coordinator would provide some service, the public interest would best be served if all qualified entities were permitted to offer such service on a competitive basis.

For the foregoing reasons, NTIA urges the Commission to deny MariTEL's proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Fredrick R. Wentland", written in a cursive style.

Fredrick R. Wentland
Associate Administrator
Office of Spectrum Management

Enclosures

cc: Edmond J. Thomas, Chief, Office of Engineering and Technology

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: G-CG36
Phone: (202) 267-2000
Fax: (202) 267-4108
Email: CGComms@comdt.uscg.mil

December 12, 2003

Mr. Frederick R. Wentland
Associate Administrator, Office of Spectrum Management
National Telecommunications and Information Administration
Herbert C. Hoover Building
14 and Constitution Avenue, N.W.
Washington, DC 20230

Dear Mr. Wentland:

Thank you for your continuing efforts to assist the Coast Guard in obtaining internationally ~~recognized~~ radio spectrum required for the implementation of the universal shipborne Automatic Identification System (AIS). Seamless installation of AIS is vital to the continued enhancement of maritime safety and homeland security.

This letter provides, as an enclosure, comments to the Federal Communications Commission's Public Notice DA 03-3669 regarding MariTEL Inc.'s proposal to serve as Automatic Identification System (AIS) Frequency Coordinator. The FCC released this Public Notice for public comment on November 19, 2003 with comments due by December 12, 2003 and reply comments due by December 22, 2003. We ask that the NTIA forward these comments to the FCC in conjunction with any comments the NTIA may provide directly or on behalf of other government agencies.

Again, thank you for your continued assistance to the Coast Guard.

Sincerely

A handwritten signature in black ink, appearing to read "C. I. Pearson".

C. I. PEARSON
Rear Admiral, U.S. Coast Guard
Assistant Commandant for C4 and
Information Technology
By direction

Enclosure

Copy: Kathy Smith, NTIA Chief Counsel
Joel Szabat, DOT OST

December 12, 2003

Comments of the U.S. Coast Guard

Introduction

MariTEL by its letter ¹ seeks FCC designation as the sole AIS Frequency Coordinator with authority to authorize use of the internationally designated AIS frequencies 161.975 MHz (Channel 87B) and 162.025 MHz (Channel 88B). The Coast Guard strongly opposes this request. MariTEL proposes to provide services that are already being provided efficiently by other entities at a fraction of the cost that MariTEL proposes to charge. MariTEL's proposal is therefore unnecessary and imposes excessive costs on the maritime community. Furthermore, MariTEL's proposal requests additional benefits, including exclusive commercial opportunities, without any justification. Ultimately, MariTEL's proposal is simply a device to generate revenue that provides no public benefit.

MariTEL's Proposed Services are Unnecessary and Cost Too Much

MariTEL proposes, amongst other things, to process all Maritime Mobile Service Identity (MMSI) applications. Aside from a number of objections to this proposal discussed more fully below, the FCC has already permitted other entities to issue MMSI's.² There is no indication that these entities are not adequately performing this job, or that MariTEL possesses any particular expertise that will enable it to perform this task more effectively. This aspect of MariTEL's frequency proposal is simply unnecessary and seems to be merely a "justification for [MariTEL] to charge subscribers for using its licensed spectrum".³ This licensed spectrum is of course encumbered by a requirement to accommodate AIS.

The Commission has routinely utilized Designated Frequency Coordinators to coordinate frequency usage in advance. Traditionally, these coordinators have been a trade group or association that is allowed to charge a reasonable fee for its services to the extent that such services provide value to both the Commission and the end user. MariTEL cites one such entity, the American Society for Healthcare Engineering, a non-profit association, as an example. The Coast Guard is unaware, however, of any frequency coordinator that is in and of itself a for profit business. MariTEL's motivation is different. MariTEL seeks this designation as a means of resolving a spectrum utilization issue between it and the Federal Government which is pending before the Commission.^{4,5} Specifically, MariTEL

¹ MariTEL ltr 11-7-03 to FCC WTB

² The FCC and the Coast Guard have signed Memorandums of Understanding with BoatUS, SeaTow International Services and MariTEL authorizing them to perform the duties of assigning MMSI's.

³ MariTEL ltr 11-7-03 to FCC WTB at 4.

⁴ DA 03-3585

seeks to be designated as the frequency coordinator as a means of generating revenue to compensate it for what it perceives to be an unauthorized taking of its licensed spectrum. The contrast between the MariTEL's proposed processing charges and those of a more typical frequency coordinator is sharp. For example, MariTEL seeks permission to impose a \$375 initial registration fee for non-mandatory carriage vessels with a \$75 annual renewal fee. By comparison, BoatUS is limited by the terms of its MOU with the FCC and the Coast Guard to charging at most a \$20 processing fee and currently offers this service for free.

Under this proposal, MariTEL would also generate revenue by charging both government and non-government shore-station transmitters initial and annual renewal fees. This essentially levies a tax on whatever communications infrastructure the Coast Guard, or any other entity, eventually builds in support of an AIS network; in the Coast Guard's case, an AIS network developed pursuant to the MTSA. For the Coast Guard, this is an unacceptable impediment to its goal of implementing AIS carriage requirements consistent with international standards and at the lowest possible cost to AIS users, vessel operators, and the American taxpayer.

MariTEL is Seeking Additional Benefits from the FCC and the Coast Guard

MariTEL's frequency coordinator proposal, moreover, goes far beyond matters associated with frequency coordination. MariTEL proposes to provide, for an additional fee, real-time AIS data. MariTEL would not collect this data itself; instead it requests the Coast Guard to provide it this data on an apparently exclusive basis at no cost. If there is a commercial market for this data, MariTEL would be the beneficiary of a government created monopoly. MariTEL's proposal fails to address the need for such a monopoly or the regulatory and policy implications of such a framework.

In addition to the ability to generate monetary compensation, MariTEL further conditions its designation and subsequent resolution of these pending matters by seeking the following additional benefits⁶ from both the Coast Guard and the Commission. These benefits include:

1. Exemption from Commission requirements regarding system build out and coverage requirements⁷ based on an as yet unproven contention that simplex operations on AIS designated channels will affect other uses of the band; and
2. Establishment by the Commission of a land/water line of demarcation where Channels 87B and 88B need not be reserved for AIS operations.

MariTEL's Proposed AIS Frequency Coordinator Responsibilities and Services

The following comments address specific aspects of MariTEL's proposals.

⁵ RM-1081

⁶ MariTEL ltr 11-7-03 to FCC WTB

⁷ 47 C.F.R. 80.49 (a) (1)

MariTEL indicates it “will coordinate the deployment of AIS shore station transmitters with the use of VPC base stations for marine and land mobile communications. The Commission currently has under consideration a Petition for Rulemaking filed by MariTEL and Mobex⁸ to expand their limited authority to utilize FCC Part 80 frequencies in Part 90 services. The Coast Guard cannot cede its authority to locate AIS shore station transmitters where needed to any private entity. Doing so could compromise our ability to carry out maritime safety and homeland security duties assigned to us by Congress.

MariTEL also asserts that, “[i]n the same way, in order to operate a vessel – a USCG regulated activity – vessel owners will be required to work through MariTEL.”⁹ These vessels presumably would not only include commercial and recreational vessels, but presumably also federal public vessels and warships. Again, the Coast Guard is unable to cede such authority to MariTEL to impose vessel operating requirements that go beyond those authorized by statute.

MariTEL listed three prime responsibilities and services that it will provide the maritime public upon payment of an appropriate fee. These services are detailed along with their proposed initial fees.¹⁰ We do not propose to address each of their points in detail; however, we address significant points in the following paragraphs.

MariTEL did not indicate an understanding of the authority of the United States Coast Guard and of the Commission as relates to the issuance and uses of Maritime Mobile Service Identifiers (MMSI). These agencies simply lack the authority to assign, cancel, or charge a fee for the MMSI assignment of a vessel not operating under United States registry. Thus, it is not clear under what authority MariTEL proposes to impose this frequency coordinator fee on foreign flagged vessels, especially those that, while not actually calling on U.S. ports, operate near U.S. waters. Since MariTEL probably would not be able to impose such fees on foreign flagged vessels, MariTEL’s proposal would likely place U.S. flagged vessels at a commercial disadvantage.

MariTEL’s proposal applies to all MMSI applications associated with AIS. MariTEL does not address the issue of how vessels with an existing MMSI are to be handled other than to say that it envisions the information would be provided to MariTEL by the entities that are already permitted by the FCC to issue MMSI’s. MariTEL also does not address the issue of fees for these vessels.

International regulations and domestic law currently mandate AIS vessel carriage requirements. The Maritime Transportation Security Act¹¹ permits the expansion of the possible uses of AIS transponders far beyond SOLAS class vessels.¹² There is no prohibition against such voluntary AIS use and it is anticipated that numerous vessels

⁸ RM 10743

⁹ MariTEL ltr 11-7-03 to FCC WTB

¹⁰ MariTEL ltr 11-7-03 to FCC WTB

¹¹ P.L. 107-295

¹² See *id.*, section 102. The MTSA’s AIS requirement is codified in 46 U.S.C. 70114.

will voluntarily use AIS. Acceptance of the MariTEL proposal would impose both an initial and a recurring fee on such vessels that now obtain their MMSI's at no cost. These fees would tend to discourage adoption of AIS by smaller vessels, including recreational vessels, not required by SOLAS or MTSR to use AIS. Use of AIS by non-SOLAS vessels is to be encouraged because it would promote the Coast Guard's goals of maritime safety and maritime domain awareness.

MariTEL did not indicate an understanding that an MMSI is utilized for many purposes not associated with AIS. These uses include equipment associated with the Global Maritime Distress and Safety System and the INMARSAT system. These systems do not operate on the spectrum licensed to MariTEL. MariTEL's argument that its licensee status justifies its proposal to charge subscribers for using its licensed spectrum does not apply to these systems.

There is good reason to question MariTEL's ability to fulfill its proposed role as frequency coordinator. MariTEL, as other entities did, entered into a Memorandum of Understanding with the Commission and the Coast Guard providing MariTEL authority to issue MMSI's to vessels licensed by rule. Compared with these other entities, MariTEL issued relatively few MMSI's and the Coast Guard experienced data base problems with MariTEL when it was issuing MMSI's. MariTEL's web site (www.maritelusa.com) currently provides information regarding MMSI registrations and a registration form but it currently appears to be impossible to actually obtain an MMSI from MariTEL.

MariTEL proposes to provide access to its proposed MMSI database to other government agencies to include state and local. Such an activity requires extensive coordination to, ~~among other things~~, resolve privacy issues. MariTEL fails to address this issue.

MariTEL proposes, apparently for a fee, to provide MMSI's to the vessels of all Federal Government agencies. The existing system provides MMSI's at no cost to such agencies.

CONCLUSION

In essence, MariTEL is treating the duties of a designated frequency coordinator as a profit-making venture. This is contrary to the Coast Guard's understanding of the duties and responsibilities of the traditional designated frequency coordinator. Consequently, and for all the reasons outlined above, the United States Coast Guard recommends the request by MariTEL be denied as not being in the public interest.



U.S. Department
of Transportation

400 Seventh Street, S.W.
Room 5424
(202) 366-0091



**Saint Lawrence
Seaway Development
Corporation**

December 10, 2003

Mr. Frederick R. Wentland
Associate Administrator
Office of Spectrum Management
National Telecommunication
and Information Administration
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, DC 20230

Dear Mr. Wentland:

On behalf of the U.S. Department of Transportation ("DOT" or "Department") and the Saint Lawrence Seaway Development Corporation ("SLSDC" or "Corporation"), I am writing to ask the NTIA to oppose the designation of MariTEL, Inc. ("MariTEL") by the Federal Communications Commission ("FCC" or "Commission") as the Automatic Identification System (AIS) frequency coordinator.

I. INTRODUCTION

On November 7, 2003, MariTEL submitted a proposal to the Commission to serve as the Automatic Identification System (AIS) frequency coordinator. The Department and the SLSDC, a wholly owned government corporation in the Department, objects to the proposal as being impracticable, unnecessary, and an unwarranted burden on the U.S. and Canadian maritime commerce of the Great Lakes Seaway System and on the U.S. government. The Department and the SLSDC accordingly asks you to urge the Commission to reject the proposal.

II. BACKGROUND

A. The St. Lawrence Seaway

The St. Lawrence Seaway ("Seaway") is one of the world's most comprehensive inland navigation systems. Following years of construction and inter-government cooperation between the United States and Canada, the system of channels, locks, and hydroelectric power stations that comprise the Seaway opened in 1959. The Seaway is a critical transportation link that connects the markets and manufacturing, mining, and agricultural producers of the Upper Midwest and Canada to each other and to the Atlantic Ocean. Maritime commerce on the Seaway annually generates in the U.S. more than 150,000 jobs, \$4.3 billion in personal income, \$3.4 billion in transportation-related business revenue, and \$1.3 billion in federal, state, and local taxes.

Management of the Seaway is shared by and coordinated between the U.S. and Canada, through the Saint Lawrence Seaway Development Corporation ("SLSDC") for the U.S., and the St. Lawrence Seaway Management Corporation ("SLSMC") for Canada. The SLSDC is an operating administration of DOT and a wholly-owned government corporation. In the broadest terms, the SLSDC is responsible for the operations and maintenance of the U.S. portion of the Seaway between Montreal and Lake Erie. More specifically, SLSDC obligations extend to vessel traffic control management in areas of the St. Lawrence River and Lake Ontario, maintaining and operating surveillance and communications systems, locks, and navigation aids. The SLSDC engages as well in environmental and trade development programs. The SLSDC also has authority to prescribe that specific communications, navigation, and other electronic equipment be installed aboard ships in the interests of safety. Act of May 13, 1954, Pub. Law No. 76-358, as amended, 68 Stat. 93, (*codified at* 33 U.S.C. §§ 981 et seq.); Port and Tanker Safety Act of 1978, Pub. Law No. 95-474, 92 Stat. 1471, §§ 4-8, 12, 13 (*codified at* 33 U.S.C. §§ 1223-27, 1231, 1232).

The SLSDC and SLSMC employ a Vessel Traffic Control ("VTC") system to monitor the progress of commercial maritime traffic, and thereby help to ensure the safe and expeditious passage of thousands of vessels annually. *See* 33 U.S.C. § 1233, *supra*, (referencing SLSDC's authority, in the U.S. portions of the Seaway, to maintain traffic systems, prescribe navigational and communications equipment, etc.). Procedures in use historically and even today have required commercial traffic to report by voice on marine VHF radio to vessel traffic control centers. Advanced technologies have emerged, however, that enhance the SLSDC's ability to carry out its statutory mission.

In the mid-1990s, the SLSDC and SLSMC began to sponsor the development of a Global Positioning System ("GPS")-based VTC system using AIS at its core. This was and continues to be with the knowledge and direction of the Congress. Testing established the viability of AIS technology. Through on-board AIS transponders, controllers and other ships learn in real time of a vessel's speed, course, and precise position. The shore-based AIS network provides vital real-time waterway safety

information such as weather, water depth, flow rate, vessel lockage, and advisory messages, to vessels transiting the Seaway. All these features were found to enhance safety and efficiency and to improve vessel security and emergency response capabilities.

The result was that beginning in 1999 the SLSDC and SLSMC erected nine transmission stations along the Seaway, from Montreal to Lake Erie. More recently, the SLSDC and the SLSMC amended their joint regulations to mandate use of AIS in Seaway waters from St. Lambert, Quebec to Long Point (mid-Lake Erie), effective at the beginning of the 2003 navigation season. *See* 33 C.F.R. § 401.20; 68 Fed. Reg. 9549 (February 28, 2003). For the first time, all vessel control centers in the Seaway share a common electronic vessel information database. The Seaway AIS system is now in operation on channels 87B (161.975 MHz) and 88B (162.025 MHz). These channels are under permanent assignment to the SLSDC for this purpose from the National Telecommunications and Information Administration ("NTIA"). They are the universal, internationally designated standard channels for shipborne AIS.

B. MarITEL Proposal

Maritel now proposes to resolve a controversy surrounding use of channels 87B and 88B, the internationally designated AIS frequencies currently in use on the Seaway, by acting as the AIS frequency coordinator. Under this proposal, in lieu of providing narrowband channel pairs to the Coast Guard pursuant to Section 80.371(c)(3) of the Commission's Rules, Maritel would accommodate the NTIA's request for nationwide use of channel 87B for AIS in a wideband simplex mode (*Public Notice*, DA 03-3585 (WTB PSPWD rel. Nov. 7, 2003) while remaining the licensee of the channel, "charged with administration of the channel for the benefit of the Coast Guard and mariners." As the exclusive AIS frequency coordinator, Maritel proposes, it would process Maritime Mobile Service Identity (MMSI) applications and maintain a database of all AIS transponders on vessels, irrespective of whether the vessels' carriage of the transponder is mandatory or voluntary, including foreign flag vessels required to carry AIS equipment under the International Convention for the Safety of Life at Sea (SOLAS Convention). As part of this function, Maritel would, among other things, provide annual reports of AIS deployment to the Commission and the Coast Guard, and maintain an Internet site with information on the location of ports and waterways requiring AIS transponders. Maritel also proposes to process MMSI applications for all shore stations and aids-to-navigation. Maritel adds that, for an additional fee, it would provide AIS Information Services, including vessel location services derived from real-time data, to vessel operators, port and harbor authorities, and state and local governments.

Maritel also sets forth a proposed initial fee schedule for its AIS frequency coordination services.

Mandatory Carriage Vessels (per vessel)

- \$300 initial registration fee
- \$75 annual renewal fee

Non-mandatory Carriage Vessels (per vessel)

- \$375 initial registration fee
- \$75 annual renewal fee

Foreign SOLAS Vessels (per vessel)

- \$75 annual renewal fee

Shore Stations (per site)

- \$4,500 initial fee for processing and RF engineering study
- \$750 annual renewal fee

In conclusion, Maritel pledges to agree to the dedication of channels 87B and 88B for nationwide AIS use, subject to the following conditions: (a) the Commission will designate Maritel as the exclusive AIS frequency coordinator; (b) the Commission will eliminate Maritel's coast station coverage requirements because of its consequent inability to provide services where there are simplex AIS operations on channels 87B and 88B; (c) the Coast Guard will provide Maritel with real-time access to AIS data to provide information and vessel location services to both private and non-federal ~~government~~ entities; and (d) the Commission will promulgate rules clarifying the land/water line of demarcation where channels 87B and 88B need not be reserved for AIS operations.

Although MariTEL does not directly refer to the SLSDC AIS facilities and operations, since it asks to be the exclusive coordinator for U.S. AIS, DOT assumes that the MariTEL intends its proposal to encompass those facilities and operations, as well as the vessels that transit the System.

III. DISCUSSION

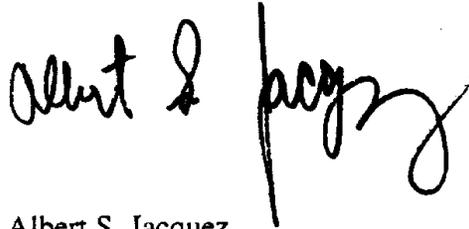
A Frequency Coordinator is designated by the FCC to ensure that users within a particular radio service or area can use the spectrum assigned for that service with no or minimal impact on other users. The FCC requires that each user applying for spectrum authorization in an area or radio service where the Commission has designated a coordinator must submit an application through that coordinator before the FCC processes it. Many coordinators are trade associations and similar organizations that often do not charge a separate fee. As discussed below, the current SLSDC AIS operations have no need for such services and the Department strongly opposes the appointment of MariTEL as a Frequency Coordinator for AIS.

U.S. and Canada and not all information is readily available to the public. Complete control of the system by the SLSDC and the SLSMC is integral to these inherently governmental purposes. Under these circumstances as well as the economic considerations, the Department and the SLSDC firmly believe that there is no justification or need for a third party coordinator for these government facilities and operations, especially a commercial concern such as MariTEL, which has a vested interest in the frequencies being used.

IV. CONCLUSION

The MariTEL proposal is impracticable, unnecessary, and an unwarranted burden on the U.S. and Canadian maritime commerce of the Great-Lakes-Seaway System and the U.S. government operations and fiscal resources. DOT and the SLSDC therefore ask the NTIA to oppose the designation of MariTEL, Inc. ("MariTEL") by the Federal Communications Commission ("FCC" or "Commission") as the Automatic Identification System (AIS) frequency coordinator.

Sincerely,

A handwritten signature in black ink, appearing to read "Albert S. Jacquez". The signature is written in a cursive style with a large, sweeping flourish at the end.

Albert S. Jacquez
Administrator
Saint Lawrence Seaway
Development Corporation