

**MEETING WITH ANGELA GIANCARLO  
LEGAL ADVISOR, COMMISSIONER ROBERT McDOWELL**

**Background**

- The FCC initiated this proceeding to allocate channel 87B (161.975 MHz) for use by Automatic Identification Systems (“AIS”).
  - AIS systems are intended to permit tracking of vessels, by other vessels and by shore stations.
  - The channel would be allocated on a wideband (25 kHz) simplex basis.
- Channel 87B is one of the channels that MariTEL, the licensee of all maritime VHF Public Coast (“VPC”) stations, obtained at auction.
- At the time of the auction, the FCC anticipated that the auction winner would be required to cooperate with the United States Coast Guard (“USCG”) to make available for USCG use, two (2) 12.5 kHz duplex channels for the so-called Ports and Waterways Safety System (“PAWSS”).
- MariTEL and the USCG had a memorandum of agreement (“MOA”) that complied with the FCC’s rules.
  - However, because of what MariTEL believed was the USCG’s incorrect interpretation of the agreement, MariTEL was required to terminate to MOA.
  - Without the MOA, the USCG was required to seek, using the regulatory process, what it could not achieve through the commercial process.

**Why MariTEL Objects to the FCC’s Proposal**

- The FCC’s rules required that MariTEL make available two narrowband channels to the USCG; the FCC’s proposal would require MariTEL to give up substantially more.
  - The FCC specifically considered and rejected, for sound technical reasons, the very approach that the USCG now proposes in July 1998.
    - The benefit to the USCG aside, there has been no demonstration how the deleterious effects identified in 1998 have been ameliorated.
  - The use of one broadband simplex channel in an otherwise duplex environment will cause MariTEL harmful interference.
    - MariTEL is authorized for base station operations on the “B” side channels; use of channel 87B for mobile use by thousands of vessels would create use of traffic on the “wrong side” of the transmission paths.
    - Ship stations will be transmitting on the same “side” of the channel that they should be “hearing” MariTEL’s transmissions.
  - MariTEL submitted engineering analyses that demonstrated interference to and from AIS.
    - That interference occurs on several adjacent frequencies, eliminating MariTEL’s ability to use not only channel 87B, but also

- many other of its licensed frequencies -- a significantly broader impact than anticipated when the FCC auctioned the spectrum.
- Although the USCG initially challenged the existence of interference, there can no longer be any doubt that the interference exists.
    - Congress recently passed the Coast Guard and Maritime Transportation Act of 2006, which recognizes that AIS will cause harmful interference to VHF operations and provides funding to help solve the interference issues.
    - MariTEL has been contacted by USCG representatives, who indicated that MariTEL's operations on adjacent channels 27 and 28 -- completely consistent with MariTEL's authorization - - caused harmful interference to AIS operations.
  - The genesis of many of these issues is the fact that in most other countries, VPC operations are conducted on government-owned stations, allowing the same entity to control the frequency environment for both AIS and VPC.
  - When the FCC originally envisioned the frequency set-aside, it contemplated much more limited USCG operations.
    - Post 9/11, the USCG would like to use the AIS frequency for marine domain awareness, and satellite surveillance systems.
      - Therefore, MariTEL's ability to use the spectrum away from waterways that would have otherwise been designated for PAWSS, at the waterways, has been eliminated.

## Solutions

- MariTEL completely supports the USCG's mission to protect the United States from terrorism and other threats.
  - It supports the USCG's desires to have adequate communications capabilities to meet its goals.
  - However, the FCC cannot -- and should not as a matter of public policy -- simply take spectrum from private licensees without compensation every time there is another requirement for the spectrum.
    - The FCC's action would amount to an unconstitutional taking.
    - Because MariTEL's licenses would be modified by the FCC's action, it must take the procedures specified under Section 316 of the Communications Act.
    - FCC action stripping MariTEL of spectrum rights would send a disastrous signal to Wall Street -- that licensees' investments in spectrum operations can be destroyed at any time by FCC action taking spectrum for an alternative use.
- MariTEL has demonstrated that there are methods to implement AIS that do not involve the use of channel 87B on a broadband simplex basis.
- However, if the FCC nevertheless proceeds with the reallocation of channel 87B, it should compensate MariTEL as it has others in the past.
  - In the case of former DEMS licensees in the 18 GHz band, the FCC provided adequate alternate spectrum at 24 GHz when the Federal

government determined that 18 GHz spectrum was required for DOD operations.

- The FCC should take a similar approach here.
  - It should ensure that no other spectrum besides channel 87B (including adjacent channels 27 and 28) are affected by AIS operations.
  - It should condition the use of channel 87B on the successful completion -- subject to review and comment by the public -- of the measures contemplated by the Coast Guard and Maritime Transportation Act of 2006 related to the harmful interference from AIS operations to VPC stations.
  - It should condition the use of channel 87B on the USCG's submission of a report -- subject to review and comment by the public -- of a demonstration that there will be no harmful interference between AIS and VPC operations.