

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of the Commission’s Rules	)	
Regarding Maritime Automatic	)	WT Docket No. 04-344
Identification Systems	)	
	)	
Petition for Rule Making Filed by	)	RM-10821
National Telecommunications and	)	
Information Administration	)	
	)	
Emergency Petition for Declaratory	)	
Ruling Filed by MariTEL, Inc.	)	
	)	
Amendment of the Commission’s Rules	)	PR Docket No. 92-257
Concerning Maritime Communications	)	

**REPLY COMMENTS OF MARITEL, INC.**

MariTEL, Inc., by its attorneys and pursuant to the provisions of Section 1.415 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”) and the invitation extended by the FCC in the Further Notice of Proposed Rule Making in the above-referenced proceeding (“*Further Notice*”), hereby submits its reply comments in response to other parties that submitted comments to the *Further Notice*.<sup>1/</sup>

**Introduction**

In its comments to the *Further Notice*, MariTEL noted the FCC’s tentative conclusion that there is no justification for reallocation of maritime channel 87B to support Automatic Identification System (“AIS”) operations on a nationwide basis. MariTEL asserted that, at least with respect to inland VHF Public Coast (“VPC”) licenses, any reallocation of channel 87B

---

<sup>1/</sup> *Amendment of the Commission’s Rules Regarding Maritime Automatic Identification Systems*, Report and Order, Further Notice of Proposed Rule Making and Fourth Memorandum Opinion and Order, 21 FCC Rcd 8892 (2006) (“*Order*”).

should be coupled with the licensing, to affected VPC licensees, of frequencies previously set aside for public safety use. MariTEL cautioned against the authorization of AIS base stations until there is sufficient evidence that the interference between AIS operations and VPC stations - - now recognized by Congress and the Coast Guard -- is remedied. MariTEL also supported operation of AIS base stations by private entities under appropriate conditions. Finally, MariTEL's comments asked that the FCC not perpetuate the AIS/VPC interference problem recognized by Congress and the Coast Guard by authorizing Class B shipborne transmitters without evidence that this interference issue has been resolved.

Other parties submitted comments in response to the *Further Notice* that are not consistent with the views expressed by MariTEL. Accordingly, MariTEL is pleased to have this opportunity to submit the following reply comments.

### **Reply Comments**

#### *Nationwide Use of Channel 87B for AIS*

Most commenting parties state that the FCC should designate channel 87B for AIS use, exclusively, on a nationwide basis.<sup>2/</sup> As it noted in its initial comments, MariTEL does not wish to impede the United States Coast Guard ("Coast Guard") in the satisfaction of its critical homeland security missions. Nevertheless, MariTEL continues to believe, as it noted in those initial comments, that there has been inadequate justification for the designation of channel 87B for nationwide AIS.

---

<sup>2/</sup> See, e.g., Comments of ACR Electronics, Inc. ("ACR"), the Nautical Institute, ORBCOMM, Inc. ("ORBCOMM"), the American Waterways Operators ("AWO"), the American Pilots' Association ("APA"), Shine Micro, Inc., ("Shine"), the Radio Technical Commission for Maritime Services ("RTCM") and the Task Force for the Implementation of the Global Maritime Distress and Safety System ("GMDSS Task Force").

Other commenting parties argue that only AIS operations should be permitted on channel 87B in order to preserve the ability of satellite or terrestrial stations to monitor AIS transmissions on channel 87B.<sup>3/</sup> Neither of these concerns should prevent the use of channel 87B for non-AIS purposes in areas sufficiently distant from navigable waterways. As an initial matter, MariTEL notes that the co-channel interference from VPC operations to AIS operations -- whether to distantly located AIS base stations or satellite stations -- is completely speculative. No engineering data has been submitted to support these claims. In an earlier phase of this proceeding, MariTEL submitted significant data to demonstrate that there would be interference from adjacent channel VPC stations to AIS operations in the same geographic data. The FCC nonetheless found MariTEL's claims speculative.<sup>4/</sup> In this case, there has been absolutely no data presented regarding the interference from distant co-channel operations on channel 87B to AIS receivers. MariTEL expects the FCC will find that this complete lack of data makes these claims of harmful interference even more speculative than MariTEL's previously submitted, well documented, claims.

Moreover, the claims that non-AIS operations on channel 87B will cause interference to AIS operations on channel 87B are without merit. AIS transmissions will apparently be monitored in one of two manners. First, they may be monitored by terrestrial stations located near the coast and navigable waterways. Some commenting parties assert that non-AIS use of channel 87B far from those navigable waterways (and the proximately located AIS base stations)

---

<sup>3/</sup> In particular, ORBCOMM, AWO, RTCM argue that non-AIS use of channel 87B will interfere with satellite operations. The Nautical Institute, APA, AWO and RTCM assert that non-AIS use of channel 87B will interfere with land based use of channel 87B for maritime operations.

<sup>4/</sup> See, *Order* at n. 118.

will cause harmful interference because of ducting and other conditions.<sup>5/</sup> The FCC has already considered and rejected similar arguments. In particular, in considering the potential use of VPC frequencies for land mobile operations, the FCC determined that the use of VPC channels for maritime use would not be compromised if land mobile use of the spectrum occurred sufficiently distant from the coast and navigable waterways.<sup>6/</sup> There is no reason to treat AIS channels any differently. By establishing a reasonable set-back from coastal areas and navigable waterways, the FCC can ensure that AIS receivers in and near maritime areas will not be negatively affected by the use of channel 87B for other purposes, in locations sufficiently distant from maritime locations.

AIS transmissions may apparently also be monitored by satellite stations. ORBCOMM states that “unwanted” transmissions on channel 87B could prevent its satellites from receiving AIS signals.<sup>7/</sup> Channel 87B is currently available for operations throughout the United States and the FCC’s rules allow the flexible use of the spectrum. If ORBCOMM chose to offer the Coast Guard a satellite based AIS monitoring system, it should have taken the nationwide availability of channel 87B for non-AIS purposes into consideration -- instead of assuming that the FCC would provide a regulatory solution to its commercial problem. ORCOMM’s suggestion that the FCC provide it with a way -- by designating channel 87B for AIS operations on a nationwide basis -- to avoid a technical solution to co-channel operations is in stark contrast

---

<sup>5/</sup> See, comments of The Nautical Institute, APA, AWO and RTCM.

<sup>6/</sup> See, e.g., *County of Placer, California Request for Waiver of Part 80 Rules to Permit Use of Maritime Frequencies for Private Land Mobile Radio Communications*, 20 FCC Rcd 3657 (2005) (authorizing partition and disaggregation of maritime VPC spectrum for inland public safety communications); *Commonwealth of Virginia Request for Waiver of Part 80 Rules to Permit Use of Maritime Frequencies for Private Land Mobile Radio Communications*, 19 FCC Rcd 15454 (2004) (same).

<sup>7/</sup> ORCOMM comments at 5.

to the FCC's direction to MariTEL. When MariTEL provided substantial evidence to the FCC of the harmful interference that AIS operations on channel 87B would cause MariTEL -- which, based on MariTEL's Memorandum of Agreement with the Coast Guard -- it had no reason to anticipate would exist, the FCC responded that MariTEL should take reasonable commercial means to alleviate the "anticipated" interference.<sup>8/</sup> In this instance, ORCOMM should be required to take those same reasonable commercial means to overcome the co-channel interference that it should have clearly anticipated would exist.

Moreover, except for one party, none of the commenters take into consideration that there are two AIS channels -- 88B and 87B. One thoughtful commenter -- Shine, proposes that channel 88B be designated as the "preferred" long range tracking AIS channel, and specifies means by which that preference can be implemented.<sup>9/</sup> Use of channel 87B for short range tracking will permit its use for non-AIS purposes in areas away from maritime areas. Use of channel 88B for long range tracking will ameliorate the ducting and related problems that will allegedly occur based on the use of channel 87B for non-maritime purposes in locations distant from maritime areas.

As noted above, there is no reason to designate channel 87B for AIS operations on a nationwide basis and even if the FCC takes that step, there is no reason that non-AIS use of channel 87B cannot co-exist with AIS operations. However, if the FCC determines otherwise, and reallocates channel 87B from current VPC licensees, it should license inland VPC licensees with spectrum otherwise set aside for public safety operations in those areas. When the FCC re-designated channel 87B for AIS use in maritime VPCs, it did so based, in part, on the fact that

---

<sup>8/</sup> See, generally, *Order* at ¶32.

<sup>9/</sup> Shine comments at 2.

maritime VPC licensees already had an obligation to make capacity available to the Coast Guard for what was then the Ports and Waterways Safety System.<sup>10/</sup> Inland VPC licensee were never similarly obligated.<sup>11/</sup> While the *Further Notice* notes the FCC's belief that it has the authority to strip licensees of spectrum capacity when it deems it appropriate, that practice is bad public policy. In this case, if the FCC proceeds to re-designate channel 87B for AIS purposes in inland VPC areas, it should provide licensees with alternative spectrum. That spectrum can be one of the two channel pairs set aside in each inland VPC for public safety operations. This solution is equitable because, among other reasons, channel 87B will now be used for public safety purposes and, as the FCC has noted, there has been little use of the spectrum set aside for public safety purposes to date.<sup>12/</sup>

*Further Degradation of MariTEL's Service by the Coast Guard*

ORBCOMM states that it has entered into an agreement with the Coast Guard to provide satellite monitoring of AIS transmissions. As ORBCOMM's comments make clear, its agreement with the Coast Guard is premised on the nationwide availability of channel 87B for AIS purposes only -- an issue before the FCC in this proceeding. It is evident, therefore, that the Coast Guard continues to make plans for implementation of AIS without any recognition of MariTEL's rights, the rights of other VPC licensees, or the FCC's rules. MariTEL is concerned

---

<sup>10/</sup> *Order at ¶¶ 12-14.*

<sup>11/</sup> It was also never the FCC's intention that channels made available to the Coast Guard would be unavailable to the maritime VPC licensee throughout the entire maritime VPC; instead, licensees were obligated to permit Coast Guard access to spectrum in maritime areas where required. *Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications*, Memorandum, Opinion and Order, Third Report and Order, Third Further Notice of Proposed Rulemaking, 21 FCC Rcd 10282 (2006). Accordingly, if the FCC dedicates channel 87B for AIS operations only, it should designate alternative spectrum for maritime VPC licensee use in locations distant from navigable waterways.

<sup>12/</sup> *Order at ¶ 60.*

that the Coast Guard's future plans -- to which the FCC has acceded to date -- will decimate MariTEL's business. The FCC should, in this proceeding, make it clear that it intends no further frequency relocation to accommodate AIS operations. The Commission's affirmation is critical for two reasons. First, MariTEL and other VPC licensees cannot implement business plans with the specter of Coast Guard plans to appropriate additional spectrum looming. Second, the threat of those Coast Guard plans is not theoretical. As MariTEL noted in its comments, the Coast Guard has now recognized the possibility of interference between AIS and VPC operations on adjacent channels-- despite denying the existence of that interference only months ago. MariTEL expects that the Coast Guard will either seek to impose unacceptable restrictions on the use of MariTEL's spectrum or simply request reallocation of those adjacent channels, as it did for channel 87B itself. Moreover, at least one commenting party has formally stated what other industry participants have informally suggested for years -- that at least one additional channel is required for AIS operations.<sup>13/</sup> Unless the FCC makes it clear that MariTEL's spectrum holdings and the spectrum holdings of other VPC licensees are not fluid and cannot change whenever the Coast Guard senses a need for additional spectrum, licensees cannot reasonably be expected to invest in the implementation of VPC operations.

#### *AIS Base Stations*

In its Comments, MariTEL pointed out that the Coast Guard and Congress have recognized the problem of interference between AIS and VPC operations on adjacent channels. It suggested that the FCC require evidence that these issues have been overcome before it authorizes AIS base stations. No other party addressed this issue because no other party will be

---

<sup>13/</sup> Shine comments at 1.

negatively affected in the same way as MariTEL. The FCC should not, however, continue to ignore the issue and perpetuate what is now a recognized problem.

MariTEL also noted that the FCC should establish procedures for non-government entities to use channel 87B for AIS base station operations. Other parties agreed with MariTEL that monitoring of channel 87B AIS data may be freely permitted.<sup>14/</sup> However, those parties also believe that private entities should not be permitted to transmit AIS data from base station locations. MariTEL disagrees. The Coast Guard requested, and the FCC agreed, that channel 87B should be dedicated for shared government/non-government purposes. The FCC acted based on that premise and should not now reverse its decision without taking any steps to implement it. Accordingly, the Commission should take those measures necessary to permit channel 87 to private entities for AIS base station operations.

#### *Class B Shipborne Equipment*

MariTEL's initial comments pointed out the deleterious effects on VPC operations of AIS transmissions using channel 87B on a wideband, simplex basis. It also noted that Congress appropriated funds to address this problem, but that the Coast Guard failed to expend those funds in the manner envisioned by Congress. No other party addressed this issue because no other party is affected in the same way as MariTEL. However, the FCC should not proceed to authorize the use of Class B shipborne equipment unless and until it is satisfied that these documented issues have been addressed.

---

<sup>14/</sup> See, comments of RTCM at 6, GMDSS Task force at 3 and ACR Electronics, Inc. at 2.

**Conclusion**

MariTEL, Inc. hereby submits the foregoing reply comments and asks that the FCC take actions consistent with the views expressed herein.

Respectfully submitted,

**MariTEL, Inc.**

By: /s/ Russell H. Fox

Russell H. Fox

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY & POPEO, P.C.  
701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
(202) 434-4300

Its Attorneys

November 27, 2006