

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:)
)
Amendment of Part 97 of the Commission's)
) **WT Docket No. 04-140**
Rules Governing the Amateur Radio Service)
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**Opposition to Petition for Partial Reconsideration Filed by the
American Radio Relay League, Inc.**

1. Background and Introduction

I, Philip E. Galasso, have been a licensed radio amateur since September 27, 1968 and a holder of the Amateur Extra Class license since April 16, 1976, currently with the station callsign K2PG.

Pursuant to Section 1.429 of the Commission's Rules (47 C.F.R. §1.429), I hereby submit my opposition to the Petition for Partial Reconsideration ("Petition") filed by the American Radio Relay League, Inc. ("ARRL") on December 11, 2006 regarding the amendment of Part 97 of the Commission's Rules in WT Docket 04-140.

On October 10, 2006, the Commission released its *Report and Order*, FCC 06-149 ("the R&O") in WT Docket

No. 04-140, amending Parts 1, 2, and 97 of the Commission's Rules and relaxing burdensome and

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obsolete regulations in the Amateur Radio Service. This R&O was published in the *Federal Register* on November 15, 2006, with the amendments taking effect on December 15, 2006.

Among these amendments were changes to Section 97.305 (c) of the Commission's Rules, which governs the types of emission permitted on various subbands of the Amateur Radio Service frequency allocations between 3 and 30 MHz. In making these changes to Section 97.305 (c) of the Commission's Rules, the Commission seeks to alleviate the congestion in the subbands where voice and image emissions are authorized on the 3.5-4.0 and 7.0-7.3 MHz bands.

On December 11, 2006, ARRL filed, by counsel, a Petition for Partial Reconsideration of the actions taken by the Commission in the R&O. I hereby request that this Petition for Partial Reconsideration be denied.

2. Discussion

For decades, the Commission has segregated emission modes on the Amateur Radio Service bands from 3.5 through 29.7 MHz¹, with voice and image emissions being limited to certain subbands within these bands, data emissions being limited to other subbands within these bands, and continuous wave telegraphy ("CW", class A1A emission) being permitted everywhere within these bands². On June 20, 2005, the Communications Think Tank ("CTT"), an independent group of amateur radio operators, filed a Petition for Rulemaking to amend Part 97 to deregulate the spectrum allocations in the Amateur Radio Service by eliminating these emission-based subbands. This Petition for Rulemaking was accepted and designated as RM-11305 by the Commission. Using a spectrum analyzer, CTT documented the congestion in the voice/image subbands, particularly within the 3.5-4.0 and 7.0-7.3 MHz bands. In contrast, the portion of the 3.5-4.0 MHz band where voice and

¹ Section 97.305 (c) of the Commission's Rules

² CW and data emissions are the only emissions permitted in the entire 30 meter band, 10.100-10.150 MHz.

image emissions are not permitted under the old rules is sparsely occupied by CW and data stations³.

While CTT sought the total elimination of emission subbands, ARRL sought a meager expansion of the voice/image subbands of the 3.5-4.0 and 7.0-7.3 MHz bands⁴. This expansion amounted to a scant 25 kHz on each band. While ARRL presumptuously assumes that the expansion of the voice/image subbands of these two bands are the result of the “refarming” proposed in RM-10413, the R&O appears to be a compromise between the amendments sought in RM-10413 (ARRL) and RM-11305 (CTT), in that the voice/image subbands will be expanded to 3.6-4.0 MHz (as opposed to the 3.725-4.0 MHz subband proposed by ARRL in RM-10413) and 7.125-7.3 MHz (proposed by ARRL)⁵.

As a basis for its Petition for Partial Reconsideration of the R&O, ARRL cites the pending prohibition of digital data emissions in the segment 3.620-3.635 MHz, where a handful of licensees currently operate automatically controlled, narrow-bandwidth digital stations, since such emissions are prohibited in subbands where voice and image emissions are permitted⁶. ARRL then quotes the comments of *three* of its members who operate Pactor I, II, and III and the proprietary Winlink digital communications system in this segment⁷. Just as ARRL is not representative of amateur radio licensees as a whole, *three selected amateur radio operators* can hardly be considered to be representative of those who use the 3.5-4.0 MHz band. Currently, there are 148,877 members of ARRL⁸. There are 713,133 amateur radio licensees in the United States, excluding club stations⁹.

³ RM-11305, Page 12

⁴ RM-10413, filed on March 22, 2002

⁵ Petition, Page 4

⁶ Section 97.305 (c) of the Commission’s Rules

⁷ Petition, Pages 11 and 12

⁸ *2005 ARRL Annual Report*, Page 5, the most current edition available

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This means that only 20.8% of all U.S. amateur radio operators are ARRL members. Furthermore, the three radio amateurs cited in the ARRL's Petition¹⁰ comprise only 0.000004% of all amateur radio operators. Excluding those amateur radio operators whose license classes do not permit operation on the 3.5-4.0 MHz band, that figure rises to a whopping 0.000009%--hardly a representative sample!

ARRL also claims that there will be "irreparable harm to a large number of operators and licensed users of the fixed, automatically controlled data stations at 3620-3635 kHz"¹¹ and that these stations are used "in disasters and emergency communications"¹². However, most disaster and emergency communications are carried out by using voice emissions, typically SSB (Type J3E emission), on the 1.8 through 29.7 MHz bands and FM (Types F3E and G3E emission) on higher frequencies. To block the expansion of subbands where voice emission may be used merely to protect the relative handful of operators who use Pactor or the proprietary Winlink 2000 system is utterly absurd and an injustice to the majority of users of the 3.5-4.0 MHz band who prefer and use voice emissions.

While ARRL seems to be obsessed with continuing the nitpicking regulations that divide our amateur radio bands into subbands, amateur radio operators in Canada and most other countries seem to do quite well without having subbands dictated by government fiat. In most countries,

⁹ The Web site www.hamdata.com, which uses figures obtained from the Commission's database

¹⁰ Robert F. Weingartner, WB2VUF; Gary Kohtala, K7EK; and David Schmidt, WB7RDI

¹¹ Petition, Page 5

¹² Ibid.

voluntary bandplans keep incompatible emission types separated¹³, as is the case in the United States with the 1.8-2.0 MHz band¹⁴

In the case of the 1.8-2.0 MHz band, the only time that the bandplan is disregarded is during contests¹⁵. Most of the contests that cause this to happen in the United States are sponsored by ARRL and *CQ Magazine*. If ARRL truly wants to keep incompatible emission types separated, perhaps it should change the rules of its contests to disqualify operators who disregard bandplans.

3. Conclusion

Rather than shrinking the voice/image subband of the 3.5-4.0 MHz band, as ARRL proposes in its Petition, Section 97.305(c) should be amended to either permit data emissions anywhere within the spectrum where CW telegraphy is currently permitted or to eliminate the division of the 3.5 through 29.7 MHz bands into subbands based on emission or bandwidth entirely¹⁶, as proposed by CTT in RM-11305. This is best considered in a separate rulemaking procedure. Therefore, the captioned Petition for Partial Reconsideration submitted by ARRL is without merit and should be DENIED.

¹³ Industry Canada Radio Information Circular, RIC-2, Issue 5, July, 2005, Page 6

¹⁴ Section 97.305 (c) of the Commission's Rules

¹⁵ A contest is a type of amateur radio operation in which stations attempt to make as many contacts as possible within a specified period, usually 24 or 48 hours. Scores are multiplied by callsign prefixes, station location, and other criteria.

¹⁶ ARRL proposes to substitute emission bandwidth for emission type as a criterion for designating subbands. This proposal was submitted by ARRL as a Petition for Rulemaking on November 14, 2005 and designated as RM-11306 by the Commission.

Dated this 13th day of December, 2006

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A paper copy of this Opposition will be served on Mr. Christopher D. Imlay, General Counsel for the American Radio Relay League, Inc., by certified mail.