

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of the Commission’s Part 95 Personal Radio Services Rules	)	WT Docket No. 10-119
	)	
1998 Biennial Regulatory Review – 47 C.F.R. Part 90 – Private Land Mobile Radio Services	)	WT Docket No. 98-182 RM-9222
	)	
Petition for Rulemaking of Garmin International, Inc.	)	RM-10762
	)	
Petition for Rulemaking of Omnitronics, L.L.C.	)	RM-10844

**COMMENTS OF FREDERICK W. BRAY**

**Introduction**

1. I am a licensee in the General Mobile Radio Service and therefore have an interest in these proceedings. I was first licensed in this service in the mid-1980’s and presently hold the GMRS call sign WPWD675. I also hold an Advanced Class amateur radio license as W6WAW, having been first licensed in the early 1960’s. I have been involved in emergency communications since the late 1960’s. I have served as a communications volunteer at American Red Cross chapters in both Northern and Southern California. In the late 1970’s and early 1980’s, I served as the ARRL District Emergency Coordinator for San Francisco and later as the Section Emergency Coordinator for the San Francisco section. I also served as head of the Radio Amateur Civil Emergency Service for the City and County of San Francisco in the early to mid-1980’s. I have attended disaster management training conducted by the American Red Cross and the California Specialized Training Institute.

2. Professionally, I was admitted to the California State Bar in 1974 and was involved in both private and public sector practice before becoming an administrative law judge with the State of California. I held that position for some nineteen years until my retirement in December 2009.

**Summary**

3. The Notice of Proposed Rule Making in this proceeding states, at paragraph 2, that the Commission wishes to update Part 95 “. . . to reflect the . . . way the American public uses the various Personal Radio Services.” The Commission is to be commended

for its willingness to provide a regulatory framework which will meet the needs of the public.

4. It is recognized that the Commission seeks public input in this proceeding. However, it is unfortunate that this input was not obtained before drafting the regulatory proposals set forth in the NPRM. At least as to the General Mobile Radio Service, (“GMRS”) the proposals do not reflect the way the American public utilizes this service. Instead, on the basis of inadequate evidence and speculation, the NPRM will result in fundamental changes to the GMRS that are adverse to the public interest.

5. Under the proposal, individual station licensing would be abolished by the immediate and wholesale cancellation of scores of thousands of GMRS licenses. All GMRS moderate power and repeater operations would cease. The GMRS and Family Radio Service would be effectively merged, creating a low-power, simplex-only, Personal Radio Service that would not meet the personal communication needs of the American public. This is because there is an established and continuing need for a personal land mobile radio service that provides for repeater systems and permits usage of the moderate power transmitters necessary to reliably access them throughout their coverage areas.

6. In such a service, licensing is necessary to insure proper identification of users, to facilitate user cooperation, and to provide a viable enforcement mechanism when violations of regulations occur.

7. While the NPRM’s conclusions regarding the day-to-day usage of the GMRS are not supported by substantial evidence, it completely fails to take into account the important communications infrastructure that this radio service provides in disasters and other emergencies. There is no evidence whatsoever that the Personal Radio Service that would be created by the NPRM -- with the *de facto* merger of the GMRS with the FRS -- will provide effective emergency communications. This unfortunate change contradicts the national policy emphasizing volunteer citizen participation in disaster preparedness and response. It seems unlikely that the Commission actually intends this consequence, but this will be the result if the GMRS is reduced to a low-power simplex radio service that is merely licensed by rule.

8. I strongly urge the Commission to withdraw most portions of the NPRM that pertain to the GMRS. Such action would be well-supported by the evidence already presented in the numerous filings by both individuals and organizations in this proceeding. This overwhelming substantial evidence establishes that the proposed changes to Part 95 will not result in a regulatory structure reflecting the actual use Americans make of the Personal Radio Services. Accordingly, the regulatory and technical schemes for the GMRS should not be changed.

**The Aspects of the NPRM Pertaining to the General Mobile Radio Service  
are Based Upon Speculation and Conjecture Rather Than Upon Substantial  
Evidence and Should Therefore Be Withdrawn.**

9. In the NPRM, at paragraph 2, the Commission observes that the nature of personal communications has evolved since the adoption of many of the Part 95 rules. It appears that this statement is intended to primarily refer to two things – the perceived ubiquity of cellular telephone and related wireless carrier-based services and anecdotal evidence that some purchasers of low-cost combination FRS / GMRS transceivers operate them on the GMRS frequencies without obtaining licenses.

10. The faulty assumption that wireless carrier-based services now meet all individual personal communications needs is unsupported by the evidence set forth in the NPRM. Not surprisingly, the assumption leads to the equally unsupported and erroneous conclusion that there is no longer need for a personal land mobile radio service that permits moderate power and repeater operations. This results in a tentative finding that the GMRS and the FRS should be effectively merged to create a simplex-only radio service with a two-watt power limitation, licensed by rule. Upon the adoption of the provisions set forth in the NPRM, the GMRS as we know it will cease to exist and all licenses will be instantly cancelled.

11. The Commission is correct that cellular telephones and related wireless carrier-based services have fundamentally changed the types of communications options throughout large parts of the United States and much of the world. These striking changes have impacted not only individuals but businesses as well. If it had followed the reasoning utilized in the NPRM, the Commission could have concluded in other recent proceedings that the commercial land mobile radio service has become redundant due to the market penetration of carrier-based communications services.<sup>1</sup>

12. However, rather than eliminating the commercial land mobile service – or even fundamentally altering its long-existing structure and licensing schemes, the Commission concluded that it is still needed and should even be expanded. Consequently, the Commission adopted narrow-banding requirements that, beginning in 2013, will increase the number of frequencies available to businesses by reducing channel spacing to 12.5 kHz and correspondingly reducing the allowable signal width. A further reduction in channel spacing to 6.25 kHz may well occur at another point in the future to meet ever-increasing demand.

13. It is evident from the narrow-banding proceedings that the Commission well understands the ongoing need for a commercial land mobile service despite the wide

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<sup>1</sup> Indeed, wireless providers market services under such names “Direct-Connect” and “push to talk” that mimic many of the characteristics of the land mobile radio service. On their surface, they might appear to eliminate any need for the base stations, mobile stations, and repeaters employed in the business land mobile service.

availability of wireless carrier-based services. This level of understanding should have been applied to the GMRS and reflected in the instant NPRM. Instead, the portions of the NPRM advocating radical changes in the GMRS appear to rest primarily upon incomplete evidence and speculation.

14. Based upon a magazine article that appeared some six years ago, the Commission has apparently concluded that many purchasers of certain combination FRS / GMRS transceivers do not take the trouble to obtain licenses. This, and the number of such radios that are sold, causes the Commission to conclude that most GMRS usage is both low-power and unlicensed.<sup>2</sup>

15. However, the article in question, from Outside Magazine, actually appears to caution purchasers of FRS / GMRS combination radios that a GMRS license is required if the latter frequencies are to be used. Indeed, it warns unlicensed users of these radios that they risk being regarded as “pirates” by duly licensed users of the GMRS.<sup>3</sup>

16. As pointed out in numerous other comments filed in this proceeding, any unlicensed usage of GMRS frequencies by users of combination radios does not in itself provide a proper rationale to legitimate what is clearly illegal under current regulations.<sup>4</sup>

17. Similarly, as others have noted, any problems concerning illegal usage of combination FRS / GMRS radios exist as a consequence of an unfortunate Commission decision in the past to certify such transceivers in the first instance. The problem can be readily curtailed by no longer certifying such radios for sale.

18. Based on the comments filed by licensed GMRS users, it is apparent that very few of them actually buy or use the combination FRS / GMRS radios. Instead, they consistently favor Part 90 commercial land mobile products that meet the GMRS technical standards because these are of much higher quality. Accordingly, elimination of the combination FRS / GMRS radios will have little if any impact on the GMRS except to reduce illegal operation.<sup>5</sup>

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<sup>2</sup> See footnote 46 to paragraph 25 of the NPRM referencing an April 2004 article in Outside Magazine.

<sup>3</sup> Outside Magazine is not a communications-oriented publication but appears to cater to outdoor sports enthusiasts. Attempts to retrieve the full article referenced in the NPRM failed – apparently due to server problems at outsideonline.com. However, several introductory lines from the article can be accessed which appear to summarize much of the content. A later (December 2005) article in the same magazine reviews a particular FRS / GMRS combination radio and again warns that its usage on GMRS frequencies requires a GMRS license, noting that the license costs only about \$80.00 and is not difficult to obtain. It does not appear that the magazine has ever proposed a license by rule solution to the problem of possible illegal operation of combination radios or has suggested that there is a need for more FRS frequencies to support outdoor activities. It also appears that the various articles do not generally discuss GMRS operations except as they may be encountered by outdoor enthusiasts using combination radios. It is not known whether the authors writing for Outdoor Magazine have any significant knowledge or understanding of the GMRS.

<sup>4</sup>P. Randall Knowles, an experienced criminal prosecutor, points out at paragraph 3.A of his comments that abolishing the GMRS licensing requirement because some people illegally transmit without a license differs little from abolishing driver’s license requirements because some people drive without them. This point is well taken and concurred with.

19. In any event, it is not sound public policy to solve the problem of illegal usage of combination FRS / GMRS radios by destroying the GMRS and converting it to a low-power radio service licensed by rule without any supportable showing of public need. The license by rule low-power solution set forth in the NPRM is both unnecessary and too drastic.<sup>6</sup>

20. Notably, as of this date, well over two-hundred comments have been filed with the Commission in response to the NPRM. Except for a handful, which focus upon possible use of the 218 – 219 MHz spectrum for train control systems and a few addressing radio control matters, virtually all concern the proposed GMRS changes. There seems to be near unanimity of opinion among such comments that the Commission's assessment of the public's usage of the GMRS frequencies is fundamentally incorrect. Instead, they uniformly demonstrate that there continues to be a strong desire and need for a personal land mobile radio service that offers the ability to utilize moderate power radios and repeater systems.

21. It is impossible to discuss each of the individual comments. Fortunately, many of the points raised have been articulately summarized in the Comments of J. Randall Knowles, which are based on his forty years experience with the GMRS and his personal and professional involvement in communications and the regulatory process. Mr. Knowles also sets forth a detailed account of the regulatory history of the GMRS which is missing from the NPRM. I largely concur with Mr. Knowles' comments and commend them to the Commission for its careful consideration.

22. Thus, based on the individual comments filed in this proceeding, there seems to be widespread opposition to the proposed changes to the GMRS. Therefore, it is apparent that the NPRM does not meet its stated goal of rewriting Part 95 to reflect the way Americans use the Personal Radio Services.

23. Even if the Commission were to somehow ultimately erroneously conclude that the existing regulatory and technical scheme of the GMRS is no longer needed due to technological change, its actual and potential usage by volunteers in disasters and other emergencies amply justifies the retention of this radio service as moderate power transceivers and repeaters are essential to communications in such circumstances.

24. In the post-9/11 and post-Katrina eras, government at all levels has increasingly

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<sup>5</sup> Any need for interoperability between the FRS and the GMRS is already met by the fact that there is some overlap between the low-power GMRS channels and the FRS channels.

<sup>6</sup> It is recognized that when the Commission created the Multi-Use Radio Service (MURS) it effectively legalized the rather widespread unlicensed usage of low-power VHF business land mobile radios. However, the purpose there was to establish a low-power VHF personal radio service where none previously existed. In the instant case, the Family Radio Service already provides access to the UHF spectrum on a licensed-by-rule basis. Access to the higher-power authorizations available in the GMRS is easily attained by applying for a GMRS license. Therefore, the rationale supporting the creation of MURS is inapplicable here.

recognized that volunteer involvement in disaster preparedness and response is critical. Indeed, it is now national policy to encourage individual citizens to actively participate in groups including Citizen Emergency Response Teams (“CERT”), the American Red Cross, the Fire Corps, the Medical Reserve Corps, and other similar organizations.<sup>7</sup> Unfortunately, the NPRM overlooks both the needs for volunteers for viable communications systems and the fact that the GMRS is presently actually relied upon by numerous emergency and disaster response groups to provide such communications services. Many of the comments in this proceeding, both from organizations and from individual volunteers oppose the proposed GMRS restructuring on the grounds that it would cripple volunteer emergency communications and thus severely adversely impact the public they serve.

25. Examples of the importance of the presently-existing GMRS to emergency and disaster response volunteers can be found in organizational comments by the West Marin Disaster Council, the President of the City Council of the City of Seattle Washington, and the Arcadia California Chapter of the American Red Cross. These are representative of various other comments and serve to lend weight to the comments of individual GMRS licensees who detail their personal involvement in volunteer disaster organizations. The organizational comments summarized below explain how the GMRS is used to support of their disaster operations and why the GMRS must remain much as it presently is to meet these needs.

26. For example, the Comments of the West Marin Disaster Council (“WMDC”) point out that it serves a rural area that is largely isolated by terrain from the more populous areas of the county. West Marin regularly experiences fires, floods, and power outages. Some towns – and even this entire portion of the county – are often cut off from the outside world for extended periods due to blocked or flooded roads, landslides and fires. Fire and emergency medical services are largely provided by volunteer fire departments. These circumstances are quite typical of many rural and semi-rural areas throughout the United States.

27. To meet its communications needs, “(t)he WMDC maintains an extensive GMRS radio system employing two repeaters (with two more proposed) and more than 90 hand held and mobile radios. This repeater system is the only reliable emergency communications system available to civilians on West Marin where cell phone coverage is largely unavailable.”<sup>8</sup> The WMDC unequivocally states that based upon tests it has conducted, the low-power simplex version of the GMRS that would be created by the NPRM could not meet its needs or effectively replace its current radio system.<sup>9</sup> Other comments filed indicate that West Marin situation is very similar to the challenges faced in other rural and semi-rural communities in the United States where the GMRS is relied

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<sup>7</sup> See, for example, the Federal Emergency Management Agency’s website that is devoted to encouraging citizen participation in disaster preparedness and relief -- <http://www.citizencorps.gov/>. The State of California has established a state Disaster Corps and maintains a similar website – [http://www.californiavolunteers.org/index.php/calvol/program\\_DisasterCorps/](http://www.californiavolunteers.org/index.php/calvol/program_DisasterCorps/)

<sup>8</sup> See: Comments of the West Marin Disaster Council, at page 1.

<sup>9</sup> See: Comments of the West Marin Disaster Council, at page 3.

upon to help cope with disasters and other emergencies.

28. The comments of Richard Conlin, President of the City Council of the City of Seattle, Washington, describe how the GMRS is used in at least one urban setting and the importance of GMRS to emergency communications that city. Mr. Conlin's comments are on his official letterhead. He discusses how a coalition of volunteer neighborhood groups has been organized to prepare for and respond to disaster and other emergency situations at the neighborhood level. Mr. Conlin states: "The leaders of the coalition have selected a radio system comprised of repeaters, base stations and portables authorized under the FCC's GMRS radio service." He then expresses concern that "... some of the proposed rule changes will reduce the effectiveness of this radio service as a reliable resource for community disaster response and recovery."<sup>10</sup>

29. Comments from the Arcadia California Chapter of the American Red Cross describe the important role that GMRS has played and continues to in support of the activities of its volunteers and those of other individual Red Cross Chapters. These comments reflect the fact that the Chapter holds a GMRS license and owns and operates two GMRS repeaters. The Chapter states that it receives mutual aid support during disasters from many organizations that utilize the GMRS. The Chapter notes that the American Red Cross has used GMRS (and its predecessor) in every responding to every major earthquake and wildland fire in Southern California since 1970. The Chapter must rely upon GMRS because, despite its efforts through the APCO coordinator, it has been unable to obtain a VHF or UHF repeater pair as no such pairs are available in its service area. The only frequency band available would require the Chapter to replace its present radio system and this is apparently not economically feasible. The Chapter points out that the GMRS permits the use of volunteer radio operators who, for whatever reasons, are not licensed in the Amateur Radio Service.

30. In addition to organizational comments, individual GMRS licensees with extensive backgrounds as emergency communications volunteers have pointed out the important reasons that the GMRS should remain intact as a disaster communications resource. These will not be summarized here as they echo the points made in the examples discussed above. The common threads running throughout both the individual and organizational comments are that the GMRS is extensively used for emergency and disaster communications and that moderate power transceivers and repeaters are essential to these operations. Any minimal perceived public benefits that might exist by creating an expanded FRS type low-power simplex radio service are more than outweighed by the detriment to volunteer emergency and disaster operations for which that type of radio service would be drastically inadequate. The speculation and insubstantial evidence relied upon in the NPRM provides grossly inadequate support for the proposed action.

## CONCLUSION

31. The NPRM proposes fundamental changes in the General Mobile Radio Service which lack any supportable rational basis. In light of the numerous comments filed in

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<sup>10</sup> See: Comments of Richard Conlin, at page 1.

this proceeding, the NPRM does not accomplish the Commissions stated goal of amending Part 95 to conform to the way Americans use the Personal Radio Services. Accordingly, it should be withdrawn and a new NPRM issued that reflects the actual needs of the General Mobile Radio Service and that provides a regulatory scheme that promotes its continued existence.

Respectfully Submitted,

Frederick W. Bray  
Post Office Box 5118  
Whittier, CA 90707-5118  
[fwbray@mminternet.com](mailto:fwbray@mminternet.com)