



LAND MOBILE COMMUNICATIONS COUNCIL

December 4, 2012

David S. Turetsky, Chief
Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

Ruth Milkman, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

Re: **Request for Clarification**
WT Docket No. 99-87
Consideration of Non-Compliant Systems

Dear Mr. Turetsky and Ms. Milkman:

In its *Public Notice* released November 30, 2012¹, the Federal Communications Commission (FCC) reported that the “Land Mobile Communications Council, which includes every Commission-certified frequency coordinator, has informed the Commission that effective February 1, 2013, frequency coordinators will treat incumbent non-compliant 25 kHz systems as 12.5 kHz systems for purposes of identifying frequency assignments for use with land mobile systems pursuant to Section 90.187 and other applicable Commission rules, absent a pending modification application evidencing narrowbanding compliance or a pending or granted request for waiver of the January 1, 2013 deadline.”

Unfortunately, this description of the LMCC position is inconsistent with the request the LMCC submitted to the Commission in its letter of May 21, 2012.² In that letter, the LMCC informed the FCC that its frequency advisory committees agreed to adopt the following procedure with respect to systems that are non-compliant with the FCC’s narrowbanding requirement as specified in FCC Rule Section 90.209(b):

¹ See DA 12-1914, dated November 30, 2012, entitled, “Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-470 MHz bands.

² See Letter dated May 21, 2012, from Douglas M. Aiken, President, LMCC to David Furth, Acting Bureau Chief, Public Safety and Homeland Security Bureau and Rick Kaplan, Bureau Chief, Wireless Telecommunications Bureau, filed in WT Docket No. 99-87.

*Effective February 1, 2013, non-compliant 25 kHz systems in the 150-470 MHz bands **shall not be considered** by the Industrial/Business and Public Safety frequency advisory committees **for purposes of identifying frequency assignments for use with land mobile systems, pursuant to FCC Rule Section 90.187 and other applicable FCC Part 90 Rules**, absent a pending modification application evidencing narrowbanding compliance or a pending or granted waiver request that seeks an extension of the January 1, 2013, narrowbanding deadline (emphasis added).*

The FCC's reading of the LMCC recommendation provides a substantive, unearned benefit to non-compliant licensees at the expense of those that complied in a timely manner with the FCC's narrowbanding mandate. Rather than providing the incentive intended by LMCC for licensees to bring non-compliant wideband systems into narrowbanding compliance or risk coordination of an "overlay" exclusive use assignment, licensees of such systems would be treated as though they were compliant already.

For these reasons, we request that the FCC reconsider and permit the frequency coordinators to implement the process identified in the LMCC's May 21, 2012, letter which has been repeated above. Should you have any questions or comments regarding this matter, please contact me.

Sincerely,

Douglas M. Aiken

President

DMA:

cc: FCC Secretary
LMCC Membership