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

In the Matter of	)
	) RM No. 11699
Encryption of Amateur Radio Communications	)
Petition for Rulemaking	)

Comments

I strongly recommend that RM No. 11699 be adopted with a few slight modifications.

I have responsibilities over a large statewide volunteer emergency communications program. It has been our concern for quite some time that in an emergency, certain information may need to be transmitted, but would be too sensitive to transmit unencrypted and in the clear.

In the US, Privacy laws are relatively new and are still maturing. As discussed in RM No. 11699, the Health Insurance Portability and Accountability Act (HIPAA) is one example of regulations that seem to be in conflict with FCC regulations part 97.113 (4). Additionally, many individual states have also enacted privacy laws, including California, Nevada, and Massachusetts, with many others being considered. These newly emerging regulations demonstrate the importance of protecting private information, even under emergency conditions.

The issue of protecting Personally Identifiable Information (PII) has become so important in recent years, that the US Department of Commerce, through the National Institute of Standards and Technology (NIST), has developed NIST Special Publication 800-122 for public and private organizations to develop privacy standards. It is recommended that the Commission consider NIST SP 800-122 in its decision making process.

It is further recommended that the suggested text of RM No. 11699 be simplified to avoid future difficulty in interpreting and complying with the proposed regulation change.

Suggested Changes

1.) <u>Remove the suggested language of who may designate the information as sensitive</u>

The proposal suggests this language:

".. or any other data designated by Federal authorities managing relief or training efforts."

By limiting the information sensitivity designator as strictly "Federal authorities," the usefulness of this change may be negated when local authorities or affected private organizations desire information to be protected. It is recommended that this limitation be stricken.

2.) Simplify the suggested language of what information may be encrypted

The proposal suggested this language:

”(c) intercommunications when participating in emergency services operations or related training exercises which may involve information covered by HIPAA or other sensitive data such as logistical information concerning medical supplies, personnel movement, other relief supplies or any other data designated by Federal authorities managing relief or training efforts”

The issue of PII is complex and dynamic. Trying to capture what is specifically permitted to be encrypted is concerning and may be confusing and difficult to adhere to in actual practice. Furthermore, future information privacy regulations are likely to change, and may vary by state. It is recommended that the text of Australian regulation Part 8 paragraph (3A) be used as a good example of how to implement this change:

(c) Intercommunications when participating in emergency services operations or related training exercises."

Please consider these comments when reviewing this very important change to the Part 97 regulations.

Respectfully,
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