In the Matter of	)	
	)	
The International Association of Auto Theft Investigators Request for Partial Waiver of Section 90.20(e)(6).	)))	PS Docket 13-281

By the Chief, Public Safety and Homeland Security Bureau:

1. The International Association of Auto Theft Investigators (IAATI) seeks a partial waiver[1] of the May 27, 2019 deadline for Stolen Vehicle Recovery Systems (SVRS) mobile units operating on 173.075 MHz, as codified in Section 2.106 (footnote US312) and Section 90.20(e)(6)(ii) of the Commission's rules.[2] Specifically, IAATI seeks an indefinite waiver for only the mobile units to allow the installed base of vehicles equipped with wideband vehicle location units to continue to emit wideband (20 kHz) tracking messages while being tracked and recovered by law enforcement entities. As discussed below, we do not grant an indefinite waiver but extend the waiver until December 31, 2024.

2. SVRS assists public safety entities to locate and recover stolen vehicles. When a vehicle owner subscribing to SVRS service notifies the police that his or her vehicle has been stolen, the police department transmits a signal from a base station in the locality where the vehicle was stolen that activates a mobile transceiver in the vehicle known as a vehicle location unit (VLU). Once activated, the VLU enables a police car equipped with SVRS location-finding equipment to locate the stolen vehicle.[3]

3. In 1995 the National Telecommunications and Information Administration (NTIA) mandated that after January 1, 2005, all land mobile radio systems in the 162-174 MHz band must operate in narrowband (12.5 kHz bandwidth) mode.[4] In 2004, the Commission began a proceeding to transition certain frequency bands allocated mainly for Federal use, including SVRS frequency 173.075 MHz, from

---

[1] *See* Request for Partial Waiver by the International Association of Auto Theft Investigators (dated July 22, 2013) (Waiver Request). IAATI has 3,604 members in over 35 countries representing law enforcement agencies and others with a legitimate interest in auto theft investigation, prevention, and escalation. IAATI "is dedicated to developing and encouraging the highest professional standards of conduct among auto theft investigators, and strives to eliminate all factors interfering with the administration of the auto theft suppression effort (including technological and regulatory limitations where possible)." *Id.* at 1-2.

[2] 47 C.F.R. §§ 2.106, footnote US312, 90.20(e)(6)(ii).

[3] *See* Public Safety and Homeland Security Bureau Seeks Comment on Request for Partial Waiver Filed by the International Association of Auto Theft Investigators, PS Docket No. 13-281, DA 13-2256, *Public Notice*, at 2 (PSHSB 2013) (*Public Notice*).

[4] *See National Telecommunications and Information Administration Manual of Regulations & Procedures for Federal Radio Frequency Management, May 2003 Edition including the September 2004 Revision* at Section 4.3.7, which is titled "Channeling Plan for Assignments in the Band 162-174 MHz (12.5 kHz Plan)."

wideband (20 kHz authorized bandwidth) to narrowband mode.[5] In 2005, the Commission established a May 27, 2019 deadline for existing SVRS operators to transition from wideband to narrowband mode.[6]

4. IAATI filed its waiver request on July 22, 2013, seeking an indefinite waiver of the Commission's May 27, 2019 deadline for SVRS operating on 173.075 MHz to transition to 12.5 kHz narrowband operation.[7] IAATI requests the waiver to allow currently installed wideband VLUs to emit

range of less than 5 miles.[18] LoJack states that recovery of these stolen vehicles often leads law enforcement to "chop shops" or other locations where criminal activity takes place, and being able to track and recover older stolen vehicles is in the public interest.[19]

7. On November 25, 2013, the Public Safety and Homeland Security Bureau (Bureau) released a public notice seeking comment on IAATI's request.[20] Specifically, the Bureau sought comment on the "extent of anticipated adjacent channel interference to federal users operating adjacent to 173.075 MHz from wideband VLUs after May 27, 2019" and the indefinite aspect of the waiver request.[21]

8. Most commenters strongly support IAATI's request for partial waiver.[22] Commenters in support of IAATI's request explain that LoJack is a vital component in their efforts to recover stolen vehicles.[23] They note that many stolen vehicles are older models which are generally stolen for their parts.[24] Some commenters mention that they use LoJack on a weekly or daily basis if needed.[25] Several

---

[18] *Id.*

[19] *Id.*; *see also Ex Parte* Letter from Henry Goldberg and Laura Stephani, Counsel for LoJack Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 13-281(filed Apr. 9, 2014) at Attachment (*New York Times* article reporting on a recent rise in car thefts targeting older and heavier vehicles).

[20] *See Public Notice*.

[21] *Id.* at 4.

[22] *See* Washington State Patrol Comments, PS Docket No. 13-281 (dated Dec. 6, 2013) (WSP Comments) at 1; Northeast Metro Auto Theft Task Force Comments, PS Docket No. 13-281 (dated Dec. 13, 2013) (NEMAT Comments) at 1; Georgia Motor Carrier Compliance Division Comments, PS Docket No. 13-281 (filed Dec. 16, 2013) (GMCCD Comments) at 1; Florida Auto Theft Intelligence Unit Comments, PS Docket No. 13-281 (date Dec. 13, 2013) (FATIU Comments) at 1; Chicago Police Department Comments, PS Docket No. 13-281 (dated Dec. 6, 2013) (Chicago Comments) at 1; Charlotte-Mecklenburg Police Department Comments, PS Docket No. 13-281 (filed Dec. 16, 2013) (CMPD Comments) at 1; State and Local Auto Theft Task Force Comments, PS Docket No. 13-281 (filed Dec. 9, 2013) (SLATE Comments) at 1; Northern Illinois Auto Theft Task Force Comments, PS Docket No. 13-281 (dated Dec. 6, 2013) at 1; New Orleans Police Department Comments, PS Docket 13-281 (dated Dec. 4, 2013) (NOPD Comments) at 1; Georgia State Patrol Comments, PS Docket 13-281 (dated Dec. 13, 2013) (GSP Comments) at 1; King County, Washington Sheriff's Office Comments, PS Docket No. 13-281 (date Dec. 13, 2013) (King County Comments) at 1; San Antonio, Texas Police Department Comments, PS Docket No. 13-281 (dated Dec. 4, 2013) (San Antonio Comments) at 1; Tri-County Auto Theft Task Force Comments, PS Docket No. 13-281 (dated Dec. 10, 2013) (TCATTF Comments) at 1; Taskforce for Regional Autotheft Prevention Comments, PS Docket No. 13-281 (dated Dec. 18, 2013) (TRAP Comments) at 1; North Carolina Department of Transportation Comments, PS Docket No. 13-281 (dated Dec. 11, 2013) (North Carolina Comments) at 1; City of Cleveland Department of Public Safety Comments, PS Docket No. 13-281 (dated Dec. 16, 2013) at 1; Miami-Dade Police Department Comments, PS Docket No. 13-281 (dated Jan. 15, 2014) (Miami-Dade Comments) at 1; Prince George's County Police Department, PS Docket No. 13-281 (dated Feb. 4, 2014) (Prince George's Comments) at 1; Dallas Police Department, PS Docket No. 13-281 (dated Feb. 11, 2014) (Dallas Comments) at 1; Coral Gables Comments, PS Docket No. 13-281 (dated Mar. 4, 2014) at 1.

[23] *See, e.g.*, WSP Comments at 1 (by December of 2013, WSP had recovered 12 stolen LoJack equipped vehicles); King County Comments at 1-2 ("This tool is an important part of our recovery efforts due to our large geographic area and the number of stolen vehicles."); North Carolina Comments at 2 (LoJack increased stolen vehicle recovery rates); TCATTF Comments at 1-2; NEMAT Comments at 1; CMPD Comments at 1; SLATE Comments at 2; GSP Comments at 1.

[24] *See, e.g.*, King County Comments at 2; *see also* Dallas Comments at 1 (older vehicles more likely to be stolen than new vehicles); NEMAT Comments at 2; CMPD Comments at 2; SLATE Comments at 2; TCATTF Comments at 2.

[25] *See, e.g.*, GMCCD Comments at 1 ("approximately 15 LoJack tracking systems installed in our patrol units thru out metro Atlanta and [we] use them on a daily basis as needed."); San Antonio Comments at 1 ("On an almost weekly basis detectives are alerted to stolen vehicles that are equipped with a LoJack system.").

commenters note that after locating stolen vehicles using LoJack, law enforcement sometimes discover other stolen vehicles, "chop shops," or additional unrelated crimes.[26] Commenters expressed concern that a denial of the partial waiver request would mean that stolen vehicles go unrecovered.[27] They contend that a waiver grant would continue to help reduce crime.[28]

9. NTIA, however, does not support an indefinite waiver.[29] NTIA expresses concern for potential interference to adjacent or co-channel users by current and future SVRS transmissions.[30] Additionally, NTIA believes that a "firm date" for the narrowband transition would prevent any "confusion" about the intent to proceed with the transition.[31] NTIA states that it "will non-concur on the order when it comes over for IRAC [Interdependent Radio Advisory Committee] coordination if there is not a required date for the narrowband transition."[32]

10. On January 9, 2014 IAATI filed a reply comment acknowledging the commenters' support for the request for partial waiver and noting that a grant of the waiver would not "pose a serious risk of interference to federal users."[33]

11. The Commission may grant a request for waiver if it is demonstrated that (1) the underlying purpose of the rule would be frustrated if applied to the instant case, and that grant of the waiver would be in the public interest, or (2) due to unusual factual circumstances the application of the rule would be "inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."[34]

12. IAATI argues it meets the first prong of the waiver standard because the purpose of Section 90.20(e)(6) is to provide law enforcement with a means of finding stolen vehicles, and strict application of the narrowband requirement would frustrate the purpose of the rule, because it is in the public interest for law enforcement to continue to search for stolen vehicles equipped with wideband VLUs as long as

---

[26] *See, e.g.*, NEMAT Comments at 1 (recovery of one stolen LoJack equipped vehicle uncovered an international ring shipping stolen vehicles out of the country); NOPD Comments at 1 (LoJack instrumental in locating two auto theft rings which resulted in several vehicle recoveries and discovery of three chop shops); TRAP Comments at 1-2 (recovery of one stolen LoJack equipped vehicle lead to the recovery of 46 stolen vehicles); Miami-Dade Comments at 1-2 (discovered motorcycle chop shop); Dallas Comments at 1-2 (tracking of one LoJack equipped stolen vehicle led to the recovery of 19 other stolen vehicles/parts); FATIU Comments at 1 (recovery of one stolen LoJack equipped pickup truck lead to the discovery of 32 other chopped or stolen vehicles); GSP Comments at 1; GMCCD Comments at 1; Chicago Comments at 1; CMPD Comments at 1; King Comments at 2; San Antonio Comments at 1; North Carolina Comments at 2; Prince George's Comments at 1.

[27] *See, e.g.*, NEMAT Comments at 2 ("concerned if LoJack is denied the requested waiver, many of these vehicles will go unrecovered and as a result, offenders will not be prosecuted."); SLATE Comments at 2 ("concerned that if LoJack is denied the requested wavier [sic], many of these cars will go unrecovered or will be recovered after they have already been stripped of their essential parts.").

[28] *See, e.g.*, King County Comments at 2; Prince George's Comments at 1; Dallas Comments at 1.

[29] Email from Edward Drocella, Electronics Engineer, US Department of Commerce, to John Kennedy, Chief, Spectrum Coordination Branch, Federal Communications Commission (Nov. 21, 2013) (November Email).

[30] Email from Edward Drocella, Electronics Engineer, US Department of Commerce, to John Kennedy, Chief, Spectrum Coordination Branch, Federal Communications Commission, and William L. Mitchell (Sept. 27, 2013).

[31] November Email.

[32] *Id.*

[33] IAATI Reply Comments, PS Docket No. 13-281 (filed Jan. 9, 2014), at 1-2.

[34] 47 C.F.R. § 1.925.

wideband VLUs are in use.[35] Moreover, IAATI argues that grant of the waiver would actually serve the purpose of the rule as it would allow its members to find missing vehicles, which also reduces other crimes by leading law enforcement to additional criminal activity.[36]

13. While the practical effect of Section 90.20(e)(6) is to facilitate the recovery of stolen vehicles by law enforcement, the underlying purpose of the narrowband deadline of which IAATI seeks a waiver, is to increase spectrum efficiency and prevent interference with federal spectrum operations.[37] On that basis, we find that IAATI satisfies the first prong of the waiver standard. Specifically, we note that the request seeks partial waiver with respect to only mobile VLUs and only when those VLUs are activated pursuant to law enforcement activities to track and recover stolen vehicles. As IAATI avers, this waiver is partial because it would not apply to base stations.[38] Given that the request seeks waiver with respect to only mobile VLUs, and given that VLUs operate at low power on a transient basis, we find that grant of the request would neither impede spectrum efficiency nor pose potential for interference to federal operations than already exists prior to the narrowband deadline. Indeed even that potential for interference would diminish as the number of wideband VLUs decreases due to attrition. We therefore find that grant of the partial request as limited to mobile VLUs is warranted.

14. In reaching this decision, however, we decline to grant IAATI's waiver request for an indefinite period of time. As IAATI and LoJack point out, the manufacture of VLUs has ceased and the number of existing VLUs in the marketplace will erode due to attrition. While we cannot speculate when wideband VLU-equipped vehicles will no longer be on the road, neither can we be expected to waive the narrowband requirement for an indefinite period of time. In addition, as noted above, NTIA opposes an indefinite waiver.

15. When the Commission originally adopted the May 27, 2019 deadline in 2005, it accepted the 14-year transition period proposed by LoJack.[39] This transition period included 10 years for "police departments and consumers relying on the installed base of wideband equipment to continue to receive service once the narrowband system is deployed."[40] At the time, LoJack stated that vehicles installed with its equipment were on the road for an estimated 10 years.[41] However, data from more recent studies shows that the average age of vehicles on the road has increased.[42] We also consider IAATI's point that vehicles 15-20 years old are more prone to being stolen, due to the market demand of their replacement

---

[35] Waiver Request at 5.

[36] *Id.*

[37] *NPRM*, 19 FCC Rcd at12690 ¶¶ 1-2.

[38] The Commission previously found that "the intermittent transmissions from […]VLUs have inherently less potential to cause interference than base station transmissions." *See* Amendment of Section 90.20(E)(6) of the Commission's Rules, WT Docket No. 06-142, *Report and Order*, 23 FCCR 12601, 12607 ¶ 12 (2008).

[39] *Report and Order*, 20 FCCR at 5812 ¶¶ 49-50.

[40] *Id.* at ¶ 49.

[41] *Id.* at ¶ 49 footnote 87; Comments of LoJack Corporation, ET Docket No. 04-243 (filed Sept. 2, 2004), at 5.

[42] "Polk Finds Average Age of Light Vehicles Continue to Rise," Polk (Aug. 6, 2013) *available at* https://www.polk.com/company/news/polk_finds_average_age_of_light_vehicles_continues_to_rise (last visited Mar. 25, 2014) (In 2013 the average age of vehicles on the road was 11.4 years). With vehicles capable of gaining up to 200,000 miles during their lifespans and vehicles averaging 15,000 miles a year, the average lifespan of a vehicle would be over 13.3 years. *See* Brad Tuttle, "What, You Only Have 100K Miles on Your Car? That's Nothing," Time (Mar. 20, 2012) *available at* http://business.time.com/2012/03/20/what-you-only-have-100k-miles-on-your-car-thats-nothing/ (last visited Mar. 25, 2014) (200,000 miles on a vehicle is the new normal); *see also* 40 C.F.R. § 600.311–12(f); "Gasoline Vehicles- Learn More About the New Labels," Environmental Protection Agency *available at* http://www.epa.gov/carlabel/gaslabelreadmore.htm (last visited Mar. 25, 2014) (EPA measures fuel efficiency standards by 15,000 miles per year).

parts. In consideration of these facts, and given that LoJack has ceased marketing wideband VLUs , we believe that it is reasonable to extend the waiver for a period of time that reflects the increased anticipated life span of vehicles that may be equipped with wideband VLUs. Therefore, we extend the narrowband deadline until December 31, 2024, to provide time for legacy wideband VLU's to leave the field via attrition.

16. We find that granting waiver relief until December 31, 2024, serves the public interest. As noted by the majority of commenters, VLUs remain critical to the recovery of stolen vehicles. In addition, we recognize that law enforcement experience has shown that recovery of a stolen VLU-equipped vehicle often times leads to the recovery of other stolen vehicles as well as the discovery of unrelated crimes, thus reducing crime and enhancing public safety. We also find no reason to believe that the public interest would be served in the absence of waiver relief, given the potential cost burdens[43] and other practical uncertainties associated with a recall of wideband VLU-equipped vehicles by the May 27, 2019 deadline. Finally, we have coordinated this order through the IRAC and have received no non-concurrence or adverse comments from NTIA or any other federal agency.

17. This waiver applies only to the operation of SVRS mobile units; it does not extend to fixed base stations. We also will not be accepting or certifying applications for new VLUs with a wideband mode. Should IAATI need an extension of this a waiver it should, in support of its request, provide the Bureau with evidence of how the current waiver has enhanced public safety and why a waiver continues to be necessary. For example, IAATI could provide the number of wideband VLUs activations that occurred during the waiver period, broken down on a quarterly basis or other information that would allow the Bureau to better weigh the benefit of extending the waiver versus the costs associated with continuing to allow the spectrum to remain encumbered for wideband use.

[43] *See* Jonas Elmerraji, "The Cost of an Auto Recall," Investopedia (Feb. 19, 2010) *available at* http://www.investopedia.com/financial-edge/0210/the-cost-of-an-auto-recall.aspx (last visited Mar. 24, 2014) (Toyota set aside $1.12 billion in 2010 for third and fourth quarter recalls, however this figure did not include legal and image costs and lost sales); Kevin M. McDonald, George Washington University Law School, "Do Auto Recalls Benefit the Public?," at 13 (Summer 2009) *available at* http://object.cato.org/sites/cato.org/files/serials/files/regulation/2009/6/v32n2-2.pdf (last visited Mar. 24, 2014) (In 2004 GM added $1.5 billion to reserves to cover recalls and warranties); David Segwick, "GM Presses Suppliers for Future Recall Costs," Automotive News (Aug. 5, 2013) *available at* http://www.autonews.com/article/20130805/OEM10/308059934/gm-presses-suppliers-for-future-recall-costs# (last visited Mar. 24, 2014) (a recall to install trailer hitches on vehicles cost $151 million); *but see* Rick Newman, "6 Myths About Car Recalls," U.S. News and World Report (Feb. 10, 2010) *available at* http://money.usnews.com/money/blogs/flowchart/2010/02/10/6-myths-about-car-recalls (last visited Mar. 24, 2014) (most recalls are not ruinous and generally amount to the cost of doing business).

18. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the partial waiver request filed by the International Association of Auto Theft Investigators on July 22, 2013 IS HEREBY GRANTED IN PART.

19. IT IS FURTHER ORDERED, that Sections 47 C.F.R. §§ 90.20(e)(6)(ii) and 2.106 footnote US312 ARE WAIVED for Stolen Vehicle Recovery Systems Vehicle Locations Units manufactured prior to 2014, until December 31, 2024.

20. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

David G. Simpson
Rear Admiral, USN (Ret.)
Chief, Public Safety and Homeland Security Bureau