

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
To: The Commission		
Via: Office of the Secretary		

**COMMENTS OF ARRL, THE NATIONAL ASSOCIATION
FOR AMATEUR RADIO**

ARRL, the national association for Amateur Radio, formally known as the American Radio Relay League, Incorporated (ARRL), by counsel and pursuant to the *Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration*, FCC 10-106, 25 FCC Rcd. 7651, 75 Fed. Reg. 43423 and 47142, released June 7, 2010 (the Notice), hereby respectfully submits its comments with respect to several of the proposed rule changes under consideration in the proceeding. In the interests of the Amateur Radio Service in this proceeding, ARRL states as follows:

1. ARRL’s interest in this proceeding is limited to three issues only. The Commission’s Part 95 Personal Radio Services are regulated separately from the Amateur Radio Service, which is regulated under Part 97. As such, Part 95 service rule changes normally do not concern ARRL, as they do not impact the Amateur Radio Service. In this proceeding, however, two issues raised in the Notice relating to

equipment available in the Citizen's Band (CB) Radio Service, and one issue pertaining to permitted communications in the High Frequency (HF) CB Radio Service do have some effect on the Amateur Radio Service.

2. Section III.C. of the Notice addresses Personal Radio Service combination radios, which combine transmit capability in multiple services, or in multiple Personal Radio Services. At Paragraph 46 of the Notice, the Commission asks whether certain or all Personal Radio Service combination radios should be prohibited or otherwise restricted. It is noted in that paragraph that some combination radios are prohibited under current rules. Section 95.655(a) provides that transmitters will not be certificated for use in the CB service if they are equipped with a frequency capability not listed in Section 95.625 (the 27 MHz CB channels 1 through 40). At paragraph 47 of the Notice, the Commission states that it is particularly concerned with protecting services that may be used for communications related to safety of life and property or communications during distress, and therefore the Notice proposes to prohibit the certification of Part 95 radios that combine Personal Radio Service channels and the capability to transmit on frequencies in specified licensed services regulated under Rule Parts 80, 87, 90 and 97. This prohibition, the Commission concludes, would prevent unauthorized use of maritime, aviation, public safety and/or Amateur Radio Service frequencies by unlicensed persons.

3. ARRL supports the Commission's proposal to prohibit the certification of radios which are intended to transmit on both Personal Radio Service channels and on Part 97 frequency allocations. There are several reasons for this. Rules such as Section 95.655(a) are necessary because it is undesirable in general to combine transmit

capability in radios intended for use in a licensed radio service with transmit capability in radios intended for use in a service licensed by rule, such as the CB service. This combination, as the Commission has noted, invites unauthorized operation on frequencies allocated to the licensed radio service by users in the unlicensed service. An example is the marketing of radios which include both FRS and GMRS channel transmit capability. This practice has resulted in numerous instances of operation by unlicensed individuals on GMRS frequencies. ARRL is very much concerned that instances of unlicensed operation on Amateur Radio frequencies, which create a difficult and time-consuming enforcement problem when they occur,¹ would increase considerably if Part 95 equipment was permitted to include Amateur Radio frequencies as well. It is therefore ARRL's strong recommendation that the Commission continue to prohibit, without exception, the certification of Part 95 radios which include as well the capability to transmit on Amateur Radio frequencies.

4. A closely related issue is raised by the Commission at paragraph 56 of the Notice. The Commission seeks to consolidate rules pertaining to the modification of certificated CB equipment. The Commission notes in that context that interference to other radio services is often caused by the use of CB equipment that has been modified by the CB operator or persons other than the manufacturer to operate on unauthorized frequencies or to operate with higher power than authorized. Indeed, there are many recent instances of the operation of modified CB equipment (or equipment imported or manufactured domestically with the inherent capability of operating outside the HF CB channels) by unlicensed individuals in the Amateur Radio Service bands. This problem

¹ Attending to the enforcement problem diverts scarce FCC enforcement resources from other purposes of value to the Amateur Radio Service.

most often occurs in the 28.000-28.500 MHz segment of the Amateur “10-meter” band. The Commission asks in the Notice what Part 95 rules are necessary in order to ensure that only the proper equipment is used. The Commission proposes to repeat the prohibition on modifying CB equipment in Section 95.311 and to make other cross-references in order to emphasize the rule.

5. While ARRL certainly supports the Commission’s proposal to clarify the Part 95 rules relative to the prohibition on modification of certificated CB equipment, much of the problem of misuse of CB equipment is due to the lack of enforcement of equipment authorization and marketing rules, rather than the language of the rules themselves. CB shops and truck stops, for example, are often found to be actively marketing and selling modified or illegally imported equipment which is actually intended to operate not on CB channels, but on Amateur or government frequencies between 27.415 MHz and 28.500 MHz. Often, this equipment is not marketed as CB equipment, but instead is marketed inaccurately as Amateur Radio equipment. It is typically neither used by nor useful to licensed Radio Amateurs, and it cannot be accurately described as Amateur Radio equipment. The rules should, and currently do, prohibit the marketing of unauthorized CB equipment (See, Section 95.603) and the modification of CB equipment to add additional transmit frequencies (See, Section 95.607). However, those who seek to circumvent the rules often do so by referring to their equipment not as CB or Part 95 equipment at all, but as Amateur Radio equipment. The latter does not require, with a few exceptions, a grant of equipment authorization prior to marketing, sale or use.

6. What makes this issue conceptually difficult are two facts: (1) There is no bright- line definition of Amateur Radio equipment in the Commission’s regulations that

could be applied to include all equipment that is used and useful at a licensed Amateur Radio station as part of the station configuration, but at the same time exclude that equipment which is used, useful and marketed to licensees in the CB or other Personal Radio Services;² and (2) The requirements for equipment authorization in particular radio services are included in individual service rule parts, rather than in any universally applicable portion of the Commission's regulations. The generally applicable equipment authorization requirements are set forth in Part 2 of the Commission's rules. The remainder are found in individual service rules. In the Amateur Radio Service, there are only device-specific requirements applicable to certain linear amplifiers and scanning receivers.³

7. ARRL suggests that the present rules regarding certification of CB equipment and the modification of legitimate CB equipment are generally adequate. Enforcement of those rules is, however, complicated and resource-intensive. Additional equipment authorization rules are unnecessary. Nor is it desirable to implement equipment authorization requirements for the Amateur Radio Service. It is important to insure that Amateur Radio equipment is marketed *solely* to radio amateurs, however. Furthermore, the determination of what constitutes Amateur Radio equipment for enforcement purposes should include the criterion that the equipment is used and useful, and is

² In *Pilot Travel Centers, LLC*, FCC 06-53, released May 11, 2006, the Commission noted that radio transmitting equipment that transmits only on Amateur Radio Service frequencies is not subject to equipment authorization requirements prior to manufacturing or marketing of the equipment. Thus, this equipment may be marketed to non-licensees. However, anyone who wishes to transmit using this equipment must obtain a license from the Commission. See 47 C.F.R. §97 *et seq.* That case involved a non-certificated Citizen's Band Radio transmitter which was being marketed as Amateur Radio equipment. It is unclear that the "operation on Amateur frequencies only" test was ever valid, and it certainly is not now, with Amateur software defined radio equipment being used (largely without misapplication) and given the fact that Amateur HF transceivers have, for decades, been easily capable of transmitting almost anywhere between about 3 MHz to at least 30 MHz.

³ See, e.g. Sections 97.315; 97.317; 2.815 and 2.1060 of the Commission's Rules.

intended for use solely⁴ (or at least principally)⁵ by licensed Amateur Radio operators.

8. It is vitally important in any case to minimize, and to maintain the utmost flexibility in, equipment authorization requirements for Amateur Radio equipment, because Amateur Radio is in essence an experimental radio service. It is important not to make Amateur station equipment unavailable or expensive, nor to stifle experimentation by application of equipment authorization requirements to Amateur Radio equipment generally. At the same time, it is not desirable to legitimize or encourage the actions of unscrupulous manufacturers who market products labeled as “Amateur Radio equipment” which are neither useful to, nor intended for use by licensed radio Amateurs. Simply put, these manufacturers seek to subvert the Commission’s spectrum management policies by merely labeling their products “Amateur Radio equipment” when it clearly is not such, but instead is intended for use by unlicensed persons without regard to the Commission’s rules.

9. The remaining issue of interest to Amateur operators in this proceeding is discussed at paragraph 57 of the Notice. Therein, the Commission discusses the current prohibition on CB communications between two stations located more than 250 kilometers apart. The rule, Section 95.413(a) (9), is intended to discourage CB skywave

⁴ In the past, in ARRL’s experience, the Commission has utilized a functional, practical definition in determining what constitutes Amateur Radio equipment and therefore what does not have to be authorized under the equipment authorization program. If devices are marketed exclusively to radio amateurs, that has been considered an important, if not determinative factor in what constitutes Amateur equipment and therefore what is exempt from equipment authorization requirements. It is a reasonable definitional element to utilize generally. If a piece of equipment is either useful exclusively in the operation of a licensed Amateur station, or if it is primarily useful only to licensed radio amateurs and intended for use by radio amateurs, and if it is marketed exclusively to radio amateurs, it is reasonable to allow the Part 97 technical rules to govern the marketing of equipment and its operation by Amateur licensees.

⁵ It is noted, however, that legitimate Amateur equipment is often used legally by Military Auxiliary Radio System (MARS) licensees and Civil Air Patrol (CAP) participants. Those two services do not require the use of certificated transmitters, and the frequencies used by MARS and CAP operators are sufficiently close to Amateur Radio Service allocations that Amateur equipment is simple to use in those Services. This opportunity should be preserved.

communications. This rule is, the Notice states, necessary because of the need for frequency reuse (what the Commission refers to as a “commons” band regulatory structure). However, as the Notice acknowledges, it is exceptionally difficult to enforce the rule, given the 27 MHz location in the radio spectrum where the CB band was placed many years ago, and the regular occurrence of long-distance propagation. The Notice asks how to address this on a regulatory basis, and asks whether, for example, power reductions or prohibitions on the use of directional antennas should be implemented. The presence of skywave propagation at 27 MHz has, as the Commission notes, enticed some to utilize unlawful linear amplifiers on CB transmitters, and to deliberately attempt to conduct long distance skywave communications despite the rule limiting path distance.

10. ARRL suggests that there is not a good regulatory solution to the skywave communications issue in the HF CB service, other than moving it to a more appropriate segment of the radio spectrum. A power reduction is not helpful because at 27 MHz, during periods of skywave propagation, even very low power transmissions are capable of exceptionally long distance communications. As to the use of directional antennas, it is quite clear that directional antennas in the CB service increase frequency reuse by creating nulls in the antenna pattern in azimuths other than on the desired communications path. Thus, the use of directional antennas in the CB service should be preserved as a means of encouraging frequency reuse. Perhaps the best solution to Section 95.413(a) (9) compliance is a non-regulatory solution. The Amateur Radio Service provides a convenient, positive and appropriate option for those CB users who are interested in long distance radio communications. There is no longer a Morse telegraphy examination requirement in the Amateur Radio Service for licensing. The

Amateur Radio Service is and always has been the proper radio service for those interested in HF communications using long distance skywave propagation and other techniques. It is suggested, therefore, that the Commission should encourage those who might be tempted to conduct long-distance CB communications to instead obtain an Amateur license. Such migration would leave the HF CB band available for its intended short-distance communications purposes, and those who might otherwise be tempted to utilize the CB band for long-distance propagation would be directed to a more constructive and educational alternative.

Therefore, the foregoing considered, ARRL, the National Association for Amateur Radio, respectfully requests that the Commission make changes with respect to the Personal Radio Services only in accordance with the foregoing comments.

Respectfully submitted,

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