



Advocacy: the voice of small business in government

February 28, 2013

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Notice: Aviation Communications, Proposed Rules, WT Docket No. 01–289; FCC 13–2

Dear Ms. Dortch:

On February 27, 2013, Bruce Lundegren and Jamie Saloom of the U.S. Small Business Administration's Office of Advocacy (Advocacy) met with Jeffery Tobias, James Shaffer, and Scot Stone of the Federal Communications Commission to discuss the FCC's recently proposed rules in the above-referenced docket. The proposed rules seek to update the FCC's regulations on 121.5 MHz emergency locator transmitters (ELTs). Also in attendance were a group of small business aviation stakeholders (stakeholders), including Robert Hackman of the Aircraft Owners and Pilots Association, Mike France and Jacqueline Rosser (via telephone) of the National Air Transportation Association, Greg Bowles of the General Aviation Manufacturers Association, Rick Peri and Paula Derks of the Aircraft Electronics Association, and David Wartofsky of Potomac Airfield.

Advocacy informed the FCC staff of the role that Advocacy plays in representing small entities before federal agencies, Congress, and the White House, and in overseeing federal agency compliance with the Regulatory Flexibility Act (RFA). Advocacy also informed FCC staff that it had hosted a small business roundtable on February 14, 2013 to discuss the FCC's proposed rules. The roundtable included small business aviation stakeholders as well as representatives of the U.S. Coast Guard, Air Force, Department of Transportation, and the National Oceanic and Atmospheric Administration (via telephone). Advocacy shared the concerns of small business representatives that the proposed rules could have a significant economic impact on small entities, especially if the FCC prohibited the use of existing ELTs that operate solely on 121.5 MHz. Advocacy noted that small businesses have also raised concerns about the FCC's effort to regulate in an area where the Federal Aviation Administration (FAA) has already acted to phase out these 121.5 MHz ELTs over time. Additionally, Advocacy expressed concerns about the lack of cost data provided in the FCC's Initial Regulatory Flexibility Analysis (IRFA), particularly costs that would be incurred if the FCC prohibited the use of existing 121.5 MHz ELTs.

Small business aviation stakeholders asked FCC staff to clarify the intent of the proposed rules and noted that no cost-benefit analysis has been provided as part of the rulemaking record. Stakeholders specifically asked for further clarification about the benefits of the proposed rules and whether the FCC intends to prohibit the continued use of these 121.5 MHz ELTs. Stakeholders noted that there appears to be specific Congressional approval for the use of 121.5 MHz ELTs. FCC clarified that prohibiting the use of existing 121.5 MHz ELTs is still an issue under consideration and that a final rule could contain language that would prohibit the use of 121.5 MHz ELTs.

Stakeholders noted that the FCC has not identified a spectrum issue or need with the 121.5 MHz frequency, and that the FCC appears to be acting solely to enhance aviation safety. Stakeholders highlighted their continued view that FAA, not the FCC, should make decisions that affect aviation safety. One stakeholder stated that all new airplanes being delivered in the U.S. are equipped with ELTs that broadcast on 121.5 MHz combined with 406 MHz (dual band) and, in some cases, also on 243 MHz (tri band).

Finally, following discussion, FCC staff indicated that the agency would likely act to extend the initial and reply comment periods by thirty days each in response to the stakeholders' recent written request.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record of the above-referenced proceeding.

Sincerely,

A handwritten signature in black ink that reads "Bruce E. Lundegren". The signature is written in a cursive style with a large, sweeping initial "B".

Bruce E. Lundegren
Assistant Chief Counsel for Advocacy

Copy to: Jeffery Tobias, Federal Communications Commission