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Federal Communications Commission
445 Twelfth Street S.W.
Washington, DC 20554

TO: Chairman William E. Kennard
Commissioners Susan Ness, Michael Powell,
Harold Furchgott-Roth, and Gloria Tristani
The Secretary, Magalie Roman Salas

Mr. Chairman, Commissioners, and Madam Secretary:

The membership of No-Code International ("NCI") is composed of amateur radio operators from 37 different nations who are devoted to the modernization of regulations for amateur radio on a global basis, particularly the removal of antiquated Morse code proficiency testing as a requirement for all license classes. However, the Commission should be aware that, while our membership is international in nature, at the present time, the majority of the membership we represent consists of U.S. citizens.

NCI participated as an interested party in both the Comment and Reply Comment phases of WT Docket 98-143 and, additionally, made an ex parte presentation to WTB Staff on March 19, 1999.

It has come to NCI's attention that the American Radio Relay League ("ARRL" or "League") appears to have made an additional, possibly improper, ex parte presentation in this proceeding in the form of a letter to the Commission. The purpose of this letter from NCI, *which is being filed with proper notice*, is to object to the League's attempt to "get the last word" and influence the outcome of this Proceeding without regard for the Commission's Rules with respect to proper public notice of ex parte presentations.

On May 20, 1999, the ARRL notified its membership via its bulletin service that (and we quote):

"ARLB035 League urges FCC to expedite restructuring

The ARRL has urged the FCC to act 'without delay' on Amateur Radio restructuring and has suggested that the Commission adopt the League's restructuring plan as its own in order to speed up the process. In a letter dated

May 19 to the FCC, the League says that the state of limbo created by the current FCC Amateur Radio restructuring proceeding, WT Docket 98-143, is stifling Amateur Radio's growth, as current and prospective hams await an FCC Report and Order.

The League asked the FCC to adopt the League's plan in a Report and Order 'at the earliest possible time.'

The ARRL told the FCC that its comprehensive plan of four license classes and two Morse code testing tiers -- 5 WPM and 12 WPM -- plus refarming of the Novice/Technician Plus HF CW subbands 'constitutes a reasonable middle ground proposal.' ..."

First, NCI would like to assert that it is not the Commission's instant Rulemaking Proceeding which is "stifling Amateur Radio's growth," but rather the outdated Morse Code proficiency requirements and an unnecessarily complex licensing structure which have stifled the growth of the Amateur Radio Service.

Additionally, NCI has searched the Commission's Electronic Comment Filing System ("ECFS") and we find that the last document posted therein relating to filings by the League, or the League's counsel on the League's behalf, appears to be the required notice of an ex parte presentation made on March 1, 1999 to Mr. Thomas Sugrue, Chief of the WTB.

We find no evidence of any notice, as required under the Commission's Rules for ex parte presentations in "permit but disclose proceedings," of the League's delivery to the Commission of the above-referenced letter, which we believe constitutes an additional ex parte presentation in this matter.

Thus, it appears that the ARRL letter of May 19, 1999 may violate Sec. 1.1206(b) of the Commission's ex parte Rules, which specifies a precise procedure for the submission of written presentations to Commission decision-making personnel on proceedings under active consideration.

NCI objects to the League's tactic of making a last minute ex parte presentation, apparently without following the procedures outlined in Sec. 1.1206(b) of the Commission's Rules which are intended to keep such presentations "above board."

According to information on the League's web site, in this letter the League attempts once again to promote its version of amateur service restructuring and suggests that the Commission should "adopt the League's proposal as its own."

The League incorrectly gives the impression that its proposal for four classes of license and two Morse code examination speeds represents the consensus of the amateur community for a solution to restructuring the amateur service. It is not.

In fact, as pointed out in NCI's March 19, 1999 ex parte presentation to WTB staff, the ARRL proposal garnered the support of only about 20% of those who filed Comments in WT Docket 98-143. Those favoring no more than a 5 wpm Morse test requirement for all classes of amateur license numbered 43% of the comments filed and those favoring at least a 5 wpm General class totaled 70% of the comments filed.

Thus, the ARRL's assertion that its proposal ... the *least* supported proposal in the body of comment in this Proceeding ... constitutes a "consensus" stretches credibility to the breaking point and this "last minute pitch" for its proposal (which appears to have been filed with the Commission without benefit of the required public notice) should be summarily rejected.

While NCI's ultimate goal is the complete elimination of Morse testing as a requirement for all classes of amateur license, we recognize that there is a treaty obligation (ITU Radio Regulation S25.5) which may preclude the Commission from completely eliminating Morse testing at this time.

NCI has therefore supported, as an alternative to the immediate elimination of all Morse testing, a single minimum speed (not to exceed 5 words per minute) manual telegraphy requirement which would fully meet the international treaty requirement that radio amateurs be Morse proficient when operating under 30 MHz.

We have also suggested that the Commission adopt a "sunset clause" which would automatically eliminate that remaining Morse test requirement as soon as the S25.5 requirement is removed from the ITU Radio Regulations. Consideration of S25 is on the agenda for what is expected to be WRC 2002 and there is a great deal of international support for the elimination of S25.5's requirement for Morse testing.

Including such a "sunset clause" in the Rules promulgated in this Proceeding will save both the Commission and the amateur community the time, expense, and wasted resources of revisiting this matter in a very short period of time when the requirements of S25.5 have ceased to exist.

Except for the amateur service, manual telegraphy has all but disappeared from the communications landscape and, but for S25.5, it should no longer be an examination requirement. It is simply an unnecessarily and unjustifiable barrier which blocks or dissuades entry and participation by large numbers of people who would otherwise be perfectly qualified, competent, contributing, and valuable amateur radio operators.

Furthermore, the need to issue "handicapped waivers" of the higher speed telegraphy requirement would be eliminated if the Morse testing speed were reduced to a speed of no more than 5 words-per-minute. There is evidence that these waivers are considered highly controversial by some in the amateur community and result in an unnecessary stigma against those who legitimately take advantage of this provision of the Commission's Rules.

We urge the Commission not to be misled into believing the ARRL's implications that the League's version of amateur service restructuring has widespread, majority support in the amateur community. It does not. In fact, as stated before, the ARRL proposal was supported by only 1 in 5 commenters in this Proceeding.

The Commission's obligation in this matter is clearly and obviously to act in the public interest. NCI firmly believes that our proposal, outlined to the Commission in our filings in WT Docket 98-143 is the solution which is most consistent with the public interest and the Commission's mandates to eliminate unnecessary regulation wherever possible, to assure that remaining regulation is the minimum necessary regulation, and to assure both the health and ability of the Amateur Radio Service to meet the objectives of Part 97.1 of the Commission's Rules in the coming century.

Like the League, NCI also urges the Commission to act promptly in this matter, but we also ask the Commission to act in the manner most consistent with the public interest and adopt the licensing structure and Morse test requirements which were proposed by NCI and supported by more than twice the number of commenters as were the ARRL's proposals ... to wit: three classes of license (Technician, General, and Extra) and, if the Commission believes that it cannot eliminate all Morse test requirements at this time because of an obligation to follow S25.5 of the ITU Radio Regulations, a maximum Morse test speed of 5 words per minute coupled with a "sunset clause" which would eliminate such remaining Morse test requirement at such time in the future as the treaty requirement is eliminated (which is anticipated at WRC 2002).

Respectfully submitted,
No Code International

A handwritten signature in blue ink, appearing to read "Carl R. Stevenson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Carl R. Stevenson, WA6VSE
For the Board of Directors.

cc: Christopher J. Wright, General Counsel, FCC
Thomas J. Sugrue, Chief, WTB
D'wana R. Terry, Chief, Private Wireless Division, WTB
John Borkowski, Chief, Policy & Rules Branch, Private Wireless Division, WTB
William Cross, Private Wireless Division, WTB