Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Kenwood Communications Corporation	)	
	)	
Request for Declaratory Ruling to Determine Compliance with Applicable Sections of Part 97 of the Commission's Rules and Regulations or Request for Waiver of Applicable Rule Sections	)	DA 99-2805

To: Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau

Comments of the American Radio Relay League, Inc.

On December 15, 1999, the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau solicited public comment on a request filed by Kenwood Communications Corporation for a declaratory ruling or waiver to allow amateur radio operators using its Sky Command system to utilize the 144-148 MHz band to transmit audio between a remotely controlled high-frequency (HF) amateur radio station and its remote control point. The American Radio Relay League, Inc. (the League), the principal representative of the Amateur Radio Service in the United States, herewith presents its comments in response to the Commission's invitation.

The type of operation described in Kenwood's petition is clearly auxiliary operation, and as such is not permitted in the 144-148 MHz band.

1. Kenwood's Sky Command system involves the use of a full duplex radio link between an HF amateur station and its control operator located at a remote control point. The control and audio from the control point to the station are transmitted in the

420-450 MHz band, and Kenwood acknowledges that this link "must be viewed as an auxiliary link under Sections 97.201 and 97.213(a) of the rules." (Request, page 7.) Another link in the opposite direction, from the HF station to the control point, carries the audio output from the HF station receiver to the control point. Kenwood argues that because this link is not used for telecommand, it should not be viewed as an auxiliary link but rather "viewed as merely providing third party communications, under the immediate monitoring and supervision of a control operator, as authorized under Section 97.115(b)(1)." (Request, page 8.)

2. The principal flaw in Kenwood's reasoning is that it overlooks Section 97.113(f) of the Commission's Rules, which reads: "No amateur station, except an auxiliary, repeater or space station, may automatically retransmit the radio signals of other amateur stations." Section 97.113(f) is mentioned nowhere in Kenwood's Request. Yet, automatic retransmission of the radio signals of other amateur stations – namely, the stations being received by the HF station – is precisely what is occurring when Sky Command is in operation. Clearly, an amateur station using Sky Command is not a space station (see definition, Section 97.3(a)(40)). Neither would Kenwood want such a station to be regulated as a repeater station, because the receiving as well as the transmitting frequencies of repeater stations are limited to the bands specified in Section 97.205(b) and the only HF band that is available for repeater operation is 29.5-29.7 MHz. By process of elimination, the only type of amateur station that can perform the function of linking the HF receiver to the remote control point is an auxiliary station, and the frequency limitations set out in Section 97.201(b) – 222.150-225.000 MHz, 420-431

MHz, 433-435 MHz, and all amateur frequencies above 438 MHz – therefore must be observed.[1]

3. The selection of appropriate frequencies for auxiliary operation is essential to efficient use of the limited frequencies that are shared by amateur stations. The link that Kenwood wishes to place in the 144-148 MHz band is a very high-density spectrum occupant, inasmuch as it transmits whenever the control operator wants to hear the HF station receiver. Thus, there is essentially no opportunity for time-sharing of the channel by different amateur stations while the system is in operation. It is for this reason that the frequencies available for auxiliary operation are restricted to the wider and somewhat less congested bands above 222.150 MHz, with protection for the satellite and weak-signal subbands of those bands.

A grant of the requested waiver would be inappropriate favoritism for a single manufacturer's product.

4. In anticipation that its request for a declaratory ruling might fail, as indeed it must, Kenwood requested in the alternative "a waiver of Section 97.201(b) of the Commission's Rules to allow operation of an auxiliary station below 220 MHz by amateur operators who utilize the Sky Command System." (Request, page 8.) Kenwood avers that "The Sky Command System has the ability to provide amateur radio operators with a level of flexibility for operation on the HF amateur bands that heretofore has been unattainable." (Request, pages 8-9.) Kenwood's Sky Command System is a fine product that, if designed for the frequencies on which such operation is permitted, would be of

[1] The question of whether third-party communications is involved is simply irrelevant. The rules governing third-party communications in the Amateur Radio Service relate to the content of messages, not to the technical configuration of the amateur stations.

interest to many amateur operators.[2] However, it would be inappropriate for the Commission to favor a single manufacturer by granting a blanket waiver for its customers to conduct a form of operation in the 144-148 MHz band, the most popular of all of the amateur allocations, that is rightly denied to amateurs using any other kind of equipment.

5. Radio remote control of an amateur HF station is not a new concept. Such stations have existed for decades. Prior to 1972 the rules for such operation were somewhat nebulous. However, in Docket 18803 in 1972, the Commission adopted comprehensive rules for remotely controlled stations including, but not limited to, repeater stations. The 1972 rules created definitions for "control station" and "auxiliary link station," among others, and limited the operation of control and auxiliary link stations to frequencies above 220 MHz. In Docket 21033 in 1977, the Commission simplified the rules and eliminated the requirement for separate licenses for auxiliary link and control stations. A new concept of "auxiliary operation" replaced the prior concepts of "control station" and "auxiliary link station." Auxiliary operation from portable and mobile control points was permitted; however, the frequencies for auxiliary operation remained restricted. Indeed, new restrictions were later added, placing 220.0-220.5 MHz and 431-433 MHz off-limits in order to protect amateur weak-signal operations. (Still later, after the use of the 220-222 MHz band was withdrawn from the Amateur Radio Service, 222.0-222.15 MHz was restricted for the same reason.)

[2] Kenwood first introduced Sky Command for use with a version of its Model TH-79 handheld transceiver. A similar transceiver, the Model TH-89, operates in the 430 MHz and 1260 MHz bands. Auxiliary operation is permitted in both of these bands. Kenwood markets the TH-89 in Japan but has chosen not to export it to the United States.

6. An article in July 1986 *QST*[3] described how off-the-shelf amateur equipment could be used for remote control of an HF station. A more detailed article appeared in January 1995 *QST*[4]. Both articles contained an explanation of the rules governing auxiliary operation and the frequency restrictions that apply. A column in April 1996 *QST*[5] explained the rules governing linked systems, including auxiliary, remote base and repeater operation.

7. Thus, both the concept of remote control operation of an HF transceiver and the rules that govern such operation have been amply publicized. Amateurs who buy a commercial product should not be placed in an advantageous position over those have built their own remote control systems, nor should manufacturers who have read and understood those rules be placed at a competitive disadvantage.

A petition for rulemaking is the appropriate means for Kenwood to seek relief – but the Commission has already ruled against a similar petition.

8. In 1985, in response to a December 1984 petition by the Quarter Century Wireless Association, the FCC proposed in Docket 85-215 to remove the frequency restrictions on auxiliary operation. ARRL comments filed on September 24, 1985, called attention to the necessity to avoid adding high-duty-cycle operations to the crowded HF and VHF bands, and the need to protect satellite and weak-signal communications. In an Order adopted on March 20, 1986, FCC 86-125, the Commission concluded "that the rules presently reflect a good match between the frequencies authorized for auxiliary operation and auxiliary link functions."

[3] B. Heil, K9EID, A VHF/HF Remote-Base Station, *QST*, July 1986, pp 30-33.
[4] J. Millner, WB2REM, The WB2 "REMote" Link, *QST*, Jan 1995, pp 29-34.
[5] J. Hennessee, Washington Mailbox, *QST*, April 1996, p 108.

9. Since the time the Commission reached this conclusion in 1986, nothing has occurred that would make the 144-148 MHz band any more appropriate for auxiliary operation. Indeed, just the opposite has occurred. The number of radio amateurs licensed to use the 144-148 MHz band has increased from approximately 400,000 to approximately 628,000, or by 57%. The variety of uses that amateurs make of the 144-148 MHz band has expanded. In 1986, packet radio was relatively new; today it is a main staple of amateur digital communication in the 144-148 MHz band, with new applications introduced such as the Automatic Position Reporting System (APRS).

10. Kenwood has not filed a petition for rulemaking, and the ARRL is not prejudging its position on such a petition should one be filed at a later date. However, it is only fair to note that such a petition would have to overcome a significant presumption that the issues were correctly decided by the Commission in 1986.

The Commission should deny Kenwood's requests for declaratory ruling or waiver with respect to Section 97.201(b).

11. For the reasons described above, the League respectfully submits that the Commission is obliged to deny Kenwood's requests to permit, by one means or another, the operation of its Sky Command system in the 144-148 MHz band.

Respectfully submitted,

THE AMERICAN RADIO RELAY
LEAGUE, INCORPORATED

225 Main Street
Newington, CT 06111
(860) 594-0200

By: _____
David Sumner, Executive Vice President

January 31, 2000