
From: Yorkgitis, Chip
Sent: Thursday, September 26, 2024 6:33 PM
To: Anthony Serafini; Jamison Prime
Cc: Chris Imlay
Subject: RE: STA File Number 1666-EX-ST-2024; Reference # 88287; Formula One Management, Limited, Applicant

Dear Gentlemen:

AFTRCC hereby takes this opportunity to respond briefly to several of the points in the memorandum of counsel (“Memorandum”) for Formula One Management, Limited (“Applicant”), dated September 26, 2024, in conjunction with above-referenced Application file number. Bottom line, coordination by an applicant for a Part 5 experimental authority and non-interference basis operation in the 2390-2395 MHz requires prior AFTRCC coordination because the band is allocated and licensed for Aeronautical Mobile Telemetry (“AMT”) on a co-primary basis. Here, there is sufficient time for Applicant to submit its request for coordination and for AFTRCC to complete the coordination process well before the green flags start to fall in Las Vegas, Nevada, or Austin, Texas.

One, AFTRCC’s concerns are not untimely, as counsel for Applicant suggests. The first event mentioned in the Application commences in nineteen days, on October 15, 2024. There is plenty of time to complete an AFTRCC coordination during that period, and AFTRCC commits to process a request for coordination submitted by the Applicant diligently. Further, as with experimental license applications generally, there was no public notice for this Application, and so there was no date by which AFTRCC’s concerns needed to be submitted to the Commission. Finally, the FCC itself directed the Applicant to seek AFTRCC coordination by correspondence dated September 5, 2024. (This in itself refutes Applicant’s counsel’s meritless claim that the FCC has never required coordination in the band.) If there is any question of untimeliness here relative to the Applicant’s start date of October 15, 2024, it is the untimeliness of Applicant’s request for coordination which was not included in the initial application or as a result of the Commission’s clear directive on September 5.

Two, as the Commission is aware, the issue here is not whether Amateurs must coordinate with AMT operators or vice versa, a matter which takes up the lion’s share of counsel’s Memorandum. Rather, the issue is whether parties seeking Part 5 experimental authorization, such as the Applicant, wishing to use *any part* of the 2360-2395 MHz band, allocated to AMT *on a primary basis*, must seek AFTRCC coordination to operate in AMT spectrum. (In response to the Memorandum, the fact that the band is allocated to AMT on a primary basis by the FCC is sufficient authority to require coordination by Part 5 experimental licenses in the band. Even other Part 87 license applicants in the band must obtain coordination from AFTRCC.) By seeking AFTRCC coordination, the Applicant also, effectively, would make its request for coordination with the Department of Defense (“DOD”), which also uses this spectrum on a co-primary basis. DOD’s Nevada Test and Training Range, for example, is just outside Las Vegas, one of the two venues for which Applicant seeks authority. Once AFTRCC completes its review, it forwards the material to the DOD ranges and Area Frequency Coordinators to complete their own review. By failing to get AFTRCC coordination, the Applicant (and any others like it desiring to use the 2390-2395 MHz band but not requesting coordination) fails to coordinate not only with non-Federal AMT operators but also with DOD.

Three, Formula One’s counsel’s Memorandum recounts the difficulties that AFTRCC and the Amateur Radio Relay League had many years ago in reaching a coordination arrangement. This is fundamentally irrelevant, as explained above, but AFTRCC takes the opportunity to underscore the immateriality, for purposes of any Part 5 experimental application before you, of there being no AFTRCC-ARRL coordination agreement. Although AFTRCC and ARRL did not reach an agreement, this did not negate the FCC’s allocation of the 2390-2395 MHz portion of the band to AMT, nor has it precluded the FCC from licensing Part 87 AMT activities in those frequencies. As noted, there are a number of Part 87

licenses that include those five megahertz in effect and used today for locations around the country. Such Part 87 operations are coordinated with AFTRCC. In light of the absence of the coordination arrangement between AFTRCC and the ARRL, AFTRCC advises AMT licensees that the 2390-2395 MHz sub-band should not be used for safety-of-life operations because coordination with Amateur Radio is not practical as such operations are highly flexible and are not registered in public databases. However, and this is the point, this does not mean that these frequencies are off-limits for other Part 87 telemetry operations. And most importantly, the absence of AMT-Amateur coordination does not obviate the AMT allocation nor eliminate the need for Part 5 experimental applicants to coordinate their requests with AFTRCC to protect against interference to the AMT operations conducted there. To suggest otherwise would elevate non-interference basis experimental operations to co-primary status and flip the Commission's allocation framework on its head.

Four, the admission by Applicant's counsel that, for many years, it has failed to request and obtain coordination from AFTRCC (and indirectly DOD, as noted above) on behalf of his clients for use of the 2390-2395 MHz band does not mean that such coordination is unnecessary. There is no estoppel against AFTRCC to demand that Part 5 experimental authorization applicants obtain coordination as a result of counsel's regular practice of not seeking AFTRCC coordination. These omissions should and must come to an end. If a Part 5 experimental license applicant fails to obtain AFTRCC coordination in a timely manner, its application should be denied without prejudice, the same as is the case if an applicant fails to obtain coordination with the FAA or any other party that the Commission staff directs the application to apply to for coordination.

To reiterate, there is plenty of time for the Applicant to seek and obtain AFTRCC coordination, assuming no problems arise. The cost to Applicant is little -- as it already sought AFTRCC coordination for 1435-1525 MHz band, and the marginal cost to add 2390-2395 MHz is only \$50.00 (Fifty Dollars). There is no basis to make exceptions for this Applicant. AFTRCC has no objection to the Commission acting on the frequencies requested by Applicant other than 2390-2395 MHz before AFTRCC coordination is complete, but it should not act on these five megahertz until that coordination occurs. As an alternative, although it is effectively the same thing, the Commission should impose a condition in the license that the Applicant obtain coordination from AFTRCC for 2390-2395 MHz (as it has for 1435-1525 MHz) before operating.

Please let me know if you have any questions for AFTRCC. Thank you for your attention to this matter.

A copy of this e-mail will be inserted in the ELS File No. referenced above.

Respectfully submitted,
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From: Chris Imlay <chris@imlaylaw.com>
Sent: Thursday, September 26, 2024 11:51 AM
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Subject: STA File Number 1666-EX-ST-2024; Reference # 88287; Formula One Management, Limited, Applicant

CAUTION: This message originated outside of Kelley Drye and was sent by: chris@imlaylaw.com

Undersigned counsel for Formula One Management is in receipt of Chip Yorkgitis' filing on behalf of AFTRCC last evening. Attached is the response of Formula One Management, Limited to that submission. A copy of this response will be uploaded to the STA application.

Kindly address all correspondence with respect to this to undersigned counsel.

Chris Imlay

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