

Some Regulatory Myths

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Disclaimer: Despite my taking care to try and get good understanding of FCC Regulations, I'm not a lawyer and can't review all the case law and FCC decisions, so don't consider this as legal advice. You might want to check things out for yourself!

In various discussions on Internet forums, where some opinionated individuals are declaring their own judgments of a multitude of "violations" in radio systems they don't personally favor, I have run up against some amazing (but tricky) statements. Let me here try to provide the information I've been able to figure out regarding each such mythical claim.

Can't Connect to ITU-established WINLINK Gateways.

The International Telecommunications Union (ITU – remember them from your license manual classes?) recently established multiple new WINLINK gateways in the Central America and Gulf area, ostensibly to assist with emergency communications in the event of more devastating hurricanes. Very nice of them! (see: <https://news.itu.int/how-itu-is-strengthening-emergency-telecommunications-in-the-americas/>) Stations included HR0COP (Honduras); TI0BCR (Costa Rica); HI8COE (Dominican Republic), and TG0CND (Guatemala).

The claim: that American Amateurs could not legally connect to HR0COP on their 7064.3 kHz 40-meter frequency because it is outside the 97.221(b) limits. Poppycock! 97.221(b) sets limits on where AMERICAN automatically controlled digital stations may operate, not Honduran stations, and not American human-operated stations. American amateurs may use any legal digital signal (eg. ARDOP, Pactor III) when they are at the control point of their client station to contact other stations. Part 97 governs your transmissions, not your receptions and has no claim on foreign stations, who have to operate within their own regulations. (Presumably the ITU is aware of those, you think?). Further, we actually have a third party agreement with Honduras, so third party communications are also allowed. (see: <http://www.arrl.org/third-party-operating-agreements>)

Mariners From Certain Nations Can't Retrieve Weather Information

The United States does not have third-party agreements with many European nations – so you cannot transmit messages from another person in the USA, to a ham in those affected nations per (see: <http://www.arrl.org/third-party-operating-agreements>) 97.3(47) has a definition of third-party traffic that goes with this:

(47) *Third party communications.* A message from the control operator (first party) of an amateur station to another amateur station control operator (second party) on behalf of **another person** (third party). [emphasis added]

The Claim: A mariner from a nation not holding third-party agreements with the United States for amateur radio communications cannot access weather information through American WINLINK gateways (automated stations).

I'm not a lawyer, but the applicable definition and rule were written I think a long time before computers were even invented, and although courts now seem to say that CORPORATIONS are "persons" I don't think weather data computers at the national weather service of the USA, or Canada, or even Austria...are persons.

So a ham on the open sea can use an American RMS Gateway to get weather information (data) by addressing a computer through its email receptacle on the WINLINK system. They aren't communicating with a person, but with an automated computer (program). Just to be sure, I'm told that someone at the WINLINK grand central actually called the FCC to verify that DATA is not a PERSON.

NOTE: If you are an FCC Lawyer and you find something in ERROR in the above, don't hesitate to contact me at docvacuumtubes at gmail.com Thanks!