

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

In the Matter of	)	
	)	
Amendment of Part 11 of the Commission's Rules	)	EB Docket No. 01-66
Regarding the Emergency Alert System	)	RM-9156
	)	RM-9215

**COMMENTS OF  
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

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The National Cable & Telecommunications Association ("NCTA"), by its attorneys, hereby submits its comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.

NCTA is the principal trade association of the cable television industry. Its members provide cable television services throughout the United States.

**INTRODUCTION AND SUMMARY**

The federal Emergency Alert System ("EAS") ensures that a seamless, uniform code of national emergency information is provided to all television viewers, whether they receive their video programming from broadcast, cable, MMDS or other participating delivery media. With respect to state and local emergency information, cable systems play a vital role in disseminating emergency alerts pursuant to local franchise agreements or on a voluntary basis. The cable industry has worked diligently with the Commission and its local franchising authorities to ensure that it is deploying an effective emergency alert capability for its customers.

After years of public comment, the Commission revised its cable EAS rules in 1997.<sup>1</sup> The revised rules meet the statutory objective in the 1992 Cable Act to treat broadcast and cable viewers alike and encourages greater participation by cable systems in state and local EAS. This was achieved by adopting a balanced approach that takes into account the vastly higher cost for cable operators, and particularly operators of small cable systems, to implement EAS in a multichannel environment. The rules provide a five-year phase-in for cable EAS participation based on system size.

Larger systems, those serving 10,000 or more cable customers per headend, were required to install EAS equipment capable of providing audio and video EAS messaging on all programmed channels, effective December 31, 1998. Systems serving between 5,000 and fewer than 10,000 customers per headend must comply by October 1, 2002. By the same date, systems serving fewer than 5,000 customers per headend must provide the national EAS message on all programmed channels or install EAS equipment that is capable of providing the audio alert messages on all programmed channels, video interrupt on all channels, and audio and video messages on one programmed channel.<sup>2</sup> As the Notice indicates, the cable industry's participation in national EAS alerting is mandatory and participation in state and local area EAS plans is voluntary.<sup>3</sup>

This Notice arose pursuant to petitions filed in 1997 by the National Weather Service and the Society of Broadcast Engineers. It proposes to modify the EAS rules, including changes in

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<sup>1</sup> Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, 12 FCC Rcd 15503 (1997) ("Second Report and Order").

<sup>2</sup> Id., 12 FCC Rcd. at 15507.

<sup>3</sup> Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, FCC 01-88, at ¶4, and n. 10 ("Notice").

EAS event, location, and originator codes; equipment authorization; text transmission, and EAS testing. As a general matter, NCTA believes a number of the proposed revisions will be beneficial to the overall EAS program in the long term. We are concerned, however, that mandating changes to EAS equipment in the midst of cable's EAS rollout and implementation may cause disruption, increase costs, and result in less participation in the state and local EAS system. Thus, while we generally support efforts to provide more effective EAS alerts, we believe that some of the proposed changes are unnecessary, redundant or burdensome to implement. Nevertheless, if it is determined that these codes and others will benefit the public, NCTA urges the Commission to adopt prospective rules, i.e. require implementation of codes on new equipment. Systems that have already installed EAS equipment should be encouraged to voluntarily retrofit their equipment to conform to new codes within a reasonable time period.

**I. CODE CHANGES SHOULD BE ACCOMPLISHED CONSISTENT WITH THE GOAL OF ACHIEVING MAXIMUM VOLUNTARY PARTICIPATION IN THE STATE AND LOCAL EAS PROGRAM**

**Event Codes.** The Notice seeks comment on proposals advanced by the National Weather Service ("NWS") four years ago.<sup>4</sup> NWS proposed modifications to the list of authorized event codes, including the adoption of a naming convention and the addition of 36 new state and local event codes to the already established list of 27 event codes.<sup>5</sup> In particular, NWS proposed changes to the three-letter event codes that are used to identify events that activate the EAS system, i.e. limit the third letter of all hazardous event codes to one of four letters: "W" for warnings, "A" for watches, "E" for emergencies, and "S" for statements. It also proposed that

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<sup>4</sup> NWS Petition for Rulemaking, RM-9215 (filed Dec. 30, 1997) ("NWS Petition").

<sup>5</sup> Notice at Appendix A.

several hazardous events, including Tornado Warning, Severe Thunderstorm Warning and Evacuation Immediate, receive new codes.

While NCTA has no general objection to the addition of these codes, and believes that many of these additions will ultimately enhance the program's effectiveness, we share the Commission's concern that any mandate to retrofit equipment to implement these changes would reduce participation in the program. As the Notice acknowledges, "the Commission has only recently adopted final rules requiring that ... cable systems install EAS equipment."<sup>6</sup> It also expresses concern that the adoption of the proposals may cause implementation problems. As a result, some cable systems may choose not to participate in the state and local EAS system, and emergency warnings may be missed.<sup>7</sup>

NCTA understands that making the proposed revisions would require all existing equipment already installed to be modified. The manufacturers we have contacted have suggested that, in some cases, the modification will require a hardware and/or a software upgrade to the encoder/decoder equipment in each and every location with EAS equipment.

We suggest that any obligation to modify the event or any other codes be applied only to new equipment. To avoid confusion and potential disruption of the EAS system, NCTA strongly recommends that if the FCC does mandate that new equipment be capable of recognizing new codes, that such obligation be imposed no sooner than a year before the equipment installation deadline for cable systems with fewer than 10,000 customers, i.e. one year following the Commission's final order in this proceeding. This advance notice will give manufacturers time to make the required changes and will allow systems adequate time to purchase and install compliant

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<sup>6</sup> Id., ¶10.

<sup>7</sup> Id.

equipment. If the FCC does not adopt rules affecting codes in the near term, and subsequently manufacturers cannot implement modifications to their equipment by October 2002, that deadline should be pushed forward. These smaller cable systems should not be asked to purchase this equipment, only to be burdened with a retrofit program shortly after implementation. Such a plan would only lead to confusion and disruption of the small system rollout of EAS equipment.

There are a number of reasons why it makes sense for existing equipment to be upgraded on a voluntary basis until such equipment is replaced.<sup>8</sup> First, there is the cost and burden on cable operators, particularly when weighed against the EAS system as it presently works. As noted above, the necessary EAS code modifications cannot be made without hardware and, in some cases, software changes. And while it appears the cost to retrofit equipment is not exceedingly high – \$200 - \$500 plus labor – it is coupled with the overall administrative burden of ensuring that each modification is properly shipped and received, and then installed, for some companies, in as many as 2500 headends and nodes.

Second, with every modification, as all involved with the EAS program know from the first year or two of the rollout, there are opportunities for glitches and missed alerts. If there is a delay in receiving the needed upgrade, or if the operator must wait for modified equipment to be type-accepted, it is possible that smaller cable systems may choose not to activate the system at all. And, as the Commission acknowledges throughout the Notice, these codes all relate to state and local emergencies, which cable systems transmit voluntarily. Cable systems can be expected to continue to work with local franchise authorities to address emergencies in the areas that they serve.

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<sup>8</sup> We estimate, based on information provided by vendors, that the life of this equipment can range from 10 to 15 years. This equipment has already been in use for approximately three years for the majority of systems serving 10,000 or more customers.

A program to encourage these modifications voluntarily, including state and local emergency coordinating committees, national and state cable industry associations, and local franchising authorities would be most effective. And it is consistent with the voluntary nature of the state and local EAS program. Such a program would minimize disruption to the existing EAS program, while allowing the upgrades to occur

**Cancellation Codes.** The Notice also asks about the Society of Broadcast Engineers' ("SBE") proposal for a cancellation code for each previously adopted and proposed event code so that a warning may be cancelled prior to the time of its expiration time. NCTA agrees with the Commission that such cancellation codes are not needed "given that EAS messages already contain a code that specifies the valid time period of the message."<sup>9</sup> The cable industry's experience is that cancellation circumstances do not arise with sufficient frequency to justify addition of these codes.

**Location Codes.** The Notice proposes to further subdivide the areas covered by each location code. At this time, the cable industry's experience is that the current protocol with respect to location codes (which divide counties into nine segments) has not been used to anywhere near its full potential. Therefore, we believe it is not necessary to expand the number of location codes. With respect to marine areas, the cable industry recommends that the NWS, rather than the EAS system, should use these location codes and allow marine equipment to decode them. As a general matter, the cable industry and its customers do not serve sailing vessels that are not in port, and would therefore have little reason to transmit these codes.

NWS and SBE request the addition of a country-wide location code. SBE states that an entire country location code is needed so that multiple alerts are not necessary to activate the

entire country in a national level emergency. NWS recommends that the 000000 location code be used for a message affecting all or a large portion of the country. In addition, NWS and SBE advocate a "triggering" arrangement that would enable consumer products that activate only upon the location code for the county in which the product is located to be activated for national EAS messages accompanied by the 000000 location code.

Similar to the adoption of new event codes, the NWS/SBE proposal would require modification of equipment at cable systems. Furthermore, we are not aware of any significant number of consumer devices that rely upon EAS transmissions over cable systems. However, if the Commission officially recognizes 000000 as the country code, NCTA believes that a better approach for its use would be to transport messages to the state-level EAS systems. State locations would in-turn translate the 000000 code to an all-state alert. This approach would not require any change to the broadcasters' or cable operators' equipment, which is capable of receiving all-state alerts.

**Originator Codes.** NWS requests that its originator code be changed from WXR to NWS. NWS claims that adoption of this change would make its originator code more easily recognizable to users of NWS alerts. Under the current arrangement, cable systems receiving NWS-originated alerts are able to identify their source through the WXR code. The Notice recognizes that if this change is made, cable operators wishing to offer state and local alerts provided by NWS will need to modify their equipment and incur associated costs without consumers receiving any benefit; regardless of the input code, the consumer will still see "National Weather Service" as the originator entity in the text of the alerts. If the Commission nevertheless decides to adopt the NWS proposal on originator codes, it should allow the continued use of the

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<sup>9</sup> Notice at 12.

WXR code, in addition to the NWS code. If two codes are allowed, however, the Commission must make certain that the use of a second originator code does not “confuse” existing equipment.

**II. THE REQUIRED MONTHLY TESTING WINDOW BETWEEN RECEIPT OF THE TEST MESSAGE AND ITS TRANSMISSION SHOULD BE INCREASED FROM FIFTEEN MINUTES TO SIXTY MINUTES**

The Commission’s rules require cable systems and broadcast stations to retransmit the Required Monthly Test (“RMT”) of EAS equipment within 15 minutes of the receipt of the RMT message.<sup>10</sup> The Notice proposes to increase the window between receipt of the message and its retransmission from 15 minutes to 60 minutes.

Several parties have previously supported this proposal. In its Petition for Rulemaking, the SBE maintained that if broadcasters were allowed the additional time, they would be able to insert EAS messages into the television schedule with less disruption.<sup>11</sup>

This proposal should be adopted. If the relay window from the time a message is sent to the cable system to the time it must be transmitted by the cable operator to customers is increased from 15 minutes to 60 minutes, cable operators will have more flexibility with which to comply with EAS message requirements. The additional flexibility will increase the likelihood that EAS messages can be inserted into the program schedule without inordinate disruption.

**III. SBE’S TEXT TRANSMISSION PROPOSAL SHOULD NOT BE ADOPTED**

The Commission seeks comment on an SBE proposal, pursuant to which “... text information would be transmitted immediately following the existing EAS message format, using the existing Audio Frequency Shift Keying (“AFSK”) technique. By providing the text message

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<sup>10</sup> See 47 C.F.R. §§ 11.51(l), 11.52(e)(2) and 11.61(a)(1)(v).

<sup>11</sup> SBE Petition for Rulemaking, RM-9156 (filed Aug. 14, 1997), at 3.

following the existing EAS message, SBE states that ‘text can be incorporated without affecting existing decoders.’”<sup>12</sup> In seeking comment on this proposal, the Commission notes that it has no information or supportive data, and is not aware of any comprehensive field tests, that demonstrate the viability of different text formats. We agree with the Commission that without sufficient information to evaluate the addition of text messaging to the EAS system, such a proposal should not be adopted. Even though proposed as a “voluntary” requirement, it may result in confusion and a significant burden on cable operators if a franchising authority mandates supplementary EAS text messages in renewal agreements.<sup>13</sup>

An additional reason to reject this proposal relates to digital channels. During the initial drafting of the EAS rules, the question was raised by cable operators as to how digital EAS alerts are to be accomplished. The FCC put the burden of solving this problem into the hands of the cable industry. The Society of Cable Telecommunications Engineers’ (SCTE) Digital Video Standards subcommittee (DVS), through volunteer’ efforts, developed its standard DVS 208,<sup>14</sup> which addresses this need. DVS 208 decodes the fields of information provided by the decoder output and, based on fixed field lengths of the variables, creates and transports the digital EAS alert to digital set top boxes and television receivers. Adding a variable-length text protocol would require going back to the subcommittee and doing significant modification to the existing standard.

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<sup>12</sup> Notice at ¶25 (citation omitted).

<sup>13</sup> Commission rules currently bar a franchising authority from requiring supplementary EAS text messages in franchise agreements, because such a requirement would conflict with Commission policies and procedures. See supra n. 2, at 15 FCC Rcd at 15520-21. If the Commission were to adopt the SBE proposal, and include a voluntary supplementary EAS text message provision in its rules, franchising authorities might conclude that they were permitted to require a similar provision in franchising agreements.

<sup>14</sup> SCTE DVS 208r8, Emergency Alert Message for Cable.

## CONCLUSION

Cable systems have invested substantial resources to provide subscribers with an effective EAS system consistent with the Commission's 1997 EAS decision. The Commission should be sensitive to new burdens on cable systems by the proposed changes, and it should be sure that the benefits outweigh the costs of this new plan. NCTA urges the Commission not to mandate code modifications of the recently installed base of EAS equipment and indeed allow voluntary upgrades of such equipment. It also should give manufacturers and cable operators adequate time to incorporate new codes into all new equipment.

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