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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Amendment of Part 11 of the	)	ET Docket No. 01-66
Commission's Rules	)	RM-9156
Regarding the Emergency Alert System	)	RM-9214

COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS

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June 11, 2001

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EXECUTIVE SUMMARY

The National Association of Broadcasters hereby files comments to the Commission's proposed changes to the Emergency Alert System ("EAS"). Informing the public of national, state and local emergencies has been an important part of broadcasters' public service obligations for many years. While broadcasters take their role in EAS very seriously, NAB urges the Commission not to overlook the wealth of emergency and critical information broadcasters provide through regular broadcast programming. The unwavering role of broadcasters in alerting the public is an important component of any cost/benefit analysis to improving the current EAS system.

NAB supports the general thrust of the Commission's current proposal to update the EAS. Specifically, NAB supports the adoption of a naming convention for state and local event codes, the addition of new location codes to cover marine areas and the addition of "CCC" alphabet and numeric code combinations. These changes would necessitate the Commission's amending Part 11 of its Rules to permit equipment manufacturers to design EAS equipment that would allow operators to select which received EAS messages they would process. Further, should the Commission reconfigure the "CCC" code, it should modify Part 11 of the its Rules to ensure that all manufacturers implement this change in a uniform manner.

NAB's overarching concern is that, while the proposed amendments would not likely require replacement of EAS equipment, broadcasters would incur some costs in purchasing, installing and operating EAS equipment and/or software upgrades. Combined with the unresolved EAS patent issue and the potential cost of patent licensing fees, these amendments could be financially burdensome to broadcasters, particularly those in small markets. Thus,

NAB suggests the Commission retain the existing event, location and "CCC" codes for a period of at least five years to allow broadcasters adequate time to obtain equipment and/or software upgrades. Moreover, the Commission should further explore whether the addition of an entire country code or the alteration of the National Weather Service's originator code warrants imposing additional costs on broadcasters, cable operators and local government entities.

NAB also supports the Commission's proposal for lengthening the time for retranslating the Required Monthly Tests ("RMT") from 15 minutes to 60 minutes from time of receipt of the RMT. NAB also supports a reduction of the modulation level of the EAS codes from 80% to 50% of full channel modulation limits.

NAB, however, urges the Commission to revise its proposed event code missing child statement to abducted child statement. State and local communities who have adopted the National Center for Missing and Exploited Children's *AMBER PLAN*, require that, before using the EAS, local law enforcement officials confirm that a child has been abducted and not merely missing. Further, this event code should be used only in accordance with structured and FCC-approved local and/or state procedures such as the *AMBER PLAN*.

Finally, the proposed EAS event codes and location code modifications have the potential of distributing event-specific and site-specific information to communities. Combined with the closed-captioned, live news coverage of storm tracking, power failures, industrial explosions, nuclear facility incidents, civil disorder, school closings, school schedule delays, school bus routing changes, etc., local signals provide more useful and in-depth emergency or related information than that which might be generated by a cable television operator. NAB urges the Commission to take this opportunity to revise its cable EAS rules to mandate only "selective override" of broadcast stations.

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To: The Commission

COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS

I. INTRODUCTION AND BACKGROUND.

The National Association of Broadcasters ("NAB")[1] hereby files comments in response to the *Notice of Proposed Rule Making* ("*Notice*") in the above-captioned proceeding.[2] The fundamental goal of the United States' Emergency Alert System ("EAS"), the successor to the Emergency Broadcast System ("EBS"), is to provide Americans with adequate warning of an emergency so that they can prepare and safeguard themselves. This alert system has been significantly remodeled twice in its fifty-year history. Created in 1951 by President Harry S. Truman for the purpose of national security, EBS was revised in 1976 during the Ford Administration and beginning in 1994, EBS gave way to the current EAS system, providing for greater reliability than its predecessor by depending more on automation and other reliable systems and

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[1] NAB is a nonprofit incorporated association of radio and television stations and broadcast networks. NAB serves and represents the American broadcasting industry.

[2] Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, *Notice of Proposed Rule Making*, ET Docket No. 01-66, rel. March 20, 2001.

procedures.[3] Although the system has never been activated intentionally on a national level, it is used on average over a thousand times per year to warn citizens of state and local emergencies, ranging from storms, to hurricanes, to floods, to tornadoes, and other civil emergencies.

Informing the public of national, state and local emergencies has been an important part of broadcasters' public service obligations for many years. While broadcasters take their role in the EAS very seriously, at the outset of these comments, NAB cautions the Commission not to view the EAS system in isolation when examining how our country's citizens are provided emergency warnings. It can be observed easily that, in an era of instantaneous communications, those in the broadcast audience are provided a wealth of emergency and critical information through regular broadcast programming that dwarfs the information provided through EAS. Further, the unwavering role of broadcasters in alerting the public is an important component of any cost/benefit analysis to improving the current EAS system. Thus, any imposition of new costs on broadcasters, other communications companies and various local government entities should be carefully examined.

II. BROADCASTERS GENERALLY SUPPORT EFFORTS TO ENHANCE THE PERFORMANCE OF THE EAS DURING STATE AND LOCAL EMERGENCIES.

This rulemaking follows the accumulation of a significant record in response to the Commission's earlier proceedings in FO Docket Nos. 91-171 and 91-301. NAB,

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[3] *Report and Order*, FO Docket Nos. 91-301 and 91-171, December 28, 1994 (hereinafter "*EAS Report and Order*").

which has been an active participant in these proceedings,[4] supports the general thrust of the Commission's current proposals to update the EAS. A revised system employing new capabilities could provide for greater reliability of information and could pinpoint the dissemination of emergency alerts on a community-by-community basis.

NAB believes it is critical for the Commission to ensure that any component of a revised EAS system does not degrade or interfere with the primary signals of broadcast stations. NAB supports, generally, the Commission's proposed modifications in the event codes, location codes and originator codes as well as the specific text protocol suggested by the Society for Broadcast Engineers ("SBE"). *Notice* at ¶¶ 7-21. However, while many of the amendments to the EAS are laudable, we are concerned that constant requests for revisions may lead to repeated and costly equipment upgrades. For example, the National Weather Service ("NWS") has asked the Commission to revise its originator code from WXR to NWS. *Notice* at ¶ 19. In the context of this proceeding – along with the other proposed changes – NWS' request does not seem unreasonable. Yet such a change will provide no inherent improvement in EAS functionality and thus, from a regulatory prospective, NWS has not demonstrated a need for this revision, especially in light of the fact that EAS participants are well versed in the existing EAS codes. Any further change in the originator code (or any other code) would be a *de facto requirement* for all state, local, cable and broadcast participants in the EAS to once again modify or upgrade their equipment. NAB's overarching concern in these matters, as discussed

[4] *See, e.g.*, Comments of NAB, filed January 13, 1993; Comments of NAB, filed November 12, 1993; NAB Petition for Partial Reconsideration, filed January 27, 1994; Comments of NAB, filed February 22, 1995; NAB Reply to Oppositions, filed March 6, 1995; and Comments of NAB on Second Notice of Proposed Rulemaking, filed April 20, 1998.

below in Section III, is the potentially high cost of purchasing, installing and operating EAS equipment upgrades. These system costs should be factored into any assessment of a system design and performance attributes and its impact full must be considered by the Commission before any final action is taken.

A. Commission Should Retain Use Of Existing Codes For At Least Five Years.

NWS has proposed several changes to state and local emergency warnings, including the adoption of a naming convention for state and local event codes. *Notice* at ¶¶ 7-9. NAB does not object to the adoption of a naming convention nor the revision of the existing event codes for Tornado Warning (TOR), Severe Thunderstorm Warning (SVR) and Evacuation Immediate (EVI) to TOW, SVW, and IEW, respectively. For some small broadcasters, however, the cost of upgrading their EAS equipment, no matter how modest, may be a substantial financial burden. Therefore, as a practical matter, NAB suggests the Commission retain the existing event codes for a period of at least five years to allow broadcasters adequate time to obtain equipment and/or software upgrades. Similarly, NAB does not object to the addition of new location codes to cover marine areas which are not presently included in the location codes specified in 47 C.F.R. § 11.31(f), so long as broadcasters are given adequate time to obtain equipment and/or software upgrades. *Notice* at ¶ 14. NAB, however, agrees with SBE that should the Commission revise the "CCC" portion of the location code to allow customization of up to 1.4 million possible location code and message combinations, thereby creating the potential for site-specific information (*e.g.*, evacuation routes and safe areas), Part 11 of the Commission's Rules should be modified in order to ensure that all manufacturers implement this change in a uniform manner. *Notice* at ¶ 17.

Further, the addition of the proposed event codes, location codes for marine areas and the addition of "CCC" alphabet and numeric code combinations would necessitate the Commission's amending Part 11 of its Rules to permit equipment manufacturers to design EAS equipment that would allow operators to select which received EAS messages they would process. We hope that the Commission will continue to ensure that the digital "targeting" characteristics of the EAS are employed fully and accurately. In this fashion, for emergencies affecting only a limited geographic area, the EAS system is supposed to be capable of passing on alerts only to those localities where such emergency information is relevant to the safety of local residents. NAB urges the Commission to continue to work closely with state and local emergency officials to ensure that the broadcast audience will not be subjected to interruptions of programming that have no impact on their safety due to overzealous or careless state/local officials.

B. A National Location Code And Its Triggering Transmission Should Be Further Explored.

NWS and SBE have requested the addition of an entire country code so that multiple alerts are not necessary to activate the entire country should a national emergency situation arise. *Notice* at ¶ 15. The Commission's position has been that "alerting the nation on a regional basis would be much more manageable and reliable but would retain effective and timely warning capability."[5] NAB does not oppose the proposed enhancement but is again concerned that NWS' proposal of a 000000 location code, which would automatically retransmit all location codes programmed into the EAS equipment, will be a cost burden to broadcasters, particularly small broadcasters.

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[5] *Memorandum Opinion and Order*, FO Docket Nos. 91-171 and 91-301, rel. October 23, 1995 at ¶ 41.

C. NAB Supports Lengthening The EAS Testing Window And Reducing The Modulation Level Of EAS Codes.

NAB fully supports the Commission's proposal to amend Part 11 of its Rules to increase the time for retransmitting Required Monthly Tests ("RMT") from 15 minutes to 60 minutes from time of receipt of the RMT. *Notice* at ¶ 22. NAB concurs with SBE that lengthening the window during which a monthly test can be retransmitted would be a significant improvement to the EAS. Extending the window to 60 minutes would help ensure that broadcasters will participate in the monthly tests because they would not be faced with cutting into their programming and instead could send relay the test message as soon as practical within the 60 minute period.

NAB also supports SBE's proposal to reduce the modulation level of the EAS codes from 80% to 50% of full channel modulation limits. *Notice* at ¶ 23. The 80% modulation benchmark is an antiquated concept which is no longer necessary for proper EAS operation. As SBE points out, the equipment configuration within a broadcast station that is needed to comply with the 80% rule is contrary to good engineering practice and is therefore unnecessary.[6] Current EAS equipment can easily decode signals modulated to 50%.

III. NAB STRONGLY URGES THE COMMISSION TO REVISE EVENT CODE MISSING CHILD STATEMENT TO ABDUCTED CHILD STATEMENT.

NAB and the National Center for Missing and Exploited Children are pleased to announce the launch of their promotional campaign *AMBER PLAN: America's Missing: Broadcast Emergency Response –A Law Enforcement and Media Guide*. Named after 9

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[6] *See* SBE Petition for Rulemaking, RM-9156, filed August 14, 1997 at 6.

year-old Amber Hagerman, who was kidnapped and brutally murdered in Arlington, Texas, *AMBER PLAN's* goal is to assist cities and towns with creating their own emergency alert plans for *abducted children*. The first *AMBER PLAN* was created in 1996 by the Association of Radio Managers with the assistance of law enforcement agencies across the Dallas/Ft. Worth Area.[7] The plan calls for law enforcement agencies to alert radio and television stations within minutes of a *child abduction*. Broadcasters and cable systems, in turn, can alert the public of the child's abduction. Because child abduction is often a life or death situation, time is of the essence when trying to rescue an abducted child. Those communities which have already adopted the *AMBER PLAN* typically require the following criteria: the child is a minor, law enforcement has confirmed the child has been *abducted* (and is not merely missing) and the child is in danger of serious bodily harm or death. While the EAS was not originally designed to support child abduction notices, the Commission has allowed state and local government use of the EAS for this purpose. Approval, however, is only granted after full FCC review of a plan's criteria and procedures. In order to prevent overuse, each plan has been designed for abducted children only and not missing children. Therefore, should the Commission include the addition of the event codes listed on Appendix A of the instant *Notice*, the Missing Child Statement should be changed to Abducted Child Statement.

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[7] Since the *AMBER PLAN* was established, modified versions have been adopted at the local, regional and statewide levels, including Albuquerque, NM, Arkansas, Beaumont, TX, Belleville, IL, Columbia, SC, Corcoran, CA, Florida, Greater Cincinnati, Northern Kentucky and Southeastern Indiana, Houston, TX, Illinois, Jefferson County, Kansas, Kansas City, MO, Memphis, TN, Oklahoma, Orange County, CA, Pima County, AZ, Raleigh, NC, St. Louis, MO, Topeka, KS, and Washoe County, NV.

Further, this event code should be used only in accordance with structured and FCC-approved local and/or state procedures such as the *AMBER PLAN*.

IV. BROADCASTERS, WHO HAVE ALREADY INCURRED SIGNIFICANT COSTS IN PURCHASING EAS EQUIPMENT, SHOULD NOT BE REQUIRED TO SPEND THOUSANDS OF DOLLARS PER STATION ON EQUIPMENT UPGRADES OR PATENT LICENSING FEES.

Throughout the EAS proceedings of the past decade, NAB has repeatedly requested that the Commission consider ways to reduce the cost burden that any new emergency warning system might place on broadcasters and other communications services that provide emergency notifications.[8] The creation of the EAS came at a cost of over $27,000,000 to the broadcast industry, at an average of $2000 per broadcast station.[9] The Commission's based its original cost rationale on the fact that "the cost to broadcasters of the new EAS devices is comparable to the cost of replacing existing EAS equipment which is nearing the end of its useful operational life."[10] Now, by contrast, most broadcasters' EAS equipment is less than 5 years old. While the proposed amendments would not likely require replacement of this equipment, there will be some cost for equipment manufactures to design, develop, process and ship the components necessary to implement the modifications. Those costs will be passed on to broadcasters

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[8] *See* Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed January 13, 1993; Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed November 12, 1993; NAB Petition for Partial Reconsideration, FO Docket Nos. 91-301 and 91-171, filed January 27, 1994; Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed February 22, 1995; NAB Reply to Oppositions, FO Docket Nos. 91-301 and 91-171, filed March 6, 1995; and Comments of NAB on Second Notice of Proposed Rulemaking, FO Docket Nos. 91-301 and 91-171, filed April 20, 1998.

[9] This is NAB's conservative estimate based on 12,000 radio stations and 1,500 television stations each paying an average of $2000 for their EAS equipment.

[10] *EAS Report and Order*, Fed. Reg., Vol. 59, 67090, 67091 (December 8, 1994).

and other EAS participants. NAB urges the Commission not to take final action in this proceeding until it has obtained reasonably accurate cost information from each manufacturer. If the Commission does not receive such information in the comment cycle, it should directly solicit the data from the manufacturers by letter and then place that information in the record. It is vital the Commission have accurate cost information so that it can properly assess the impact of the proposed enhancements to the EAS. Further, as discussed below in Section B, broadcasters may face additional and unforeseen costs for their initial EAS equipment with patent licensing fees.

A. Should the Commission Implement the Proposed EAS Changes, Full or Partial Federal Funding is Both Fair and Appropriate.

Continually throughout the 1990s, NAB urged the Commission to consider ways to reduce the cost burden that a new system might place on broadcasters.[11] NAB agrees that Commission needs to balance the "lead time needed by industry to begin the new service against the need to ensure the public's safety."[12] But in implementing the EAS, the Commission should avoid imposing costs that are undue and unnecessary to its goal of timely dissemination of emergency information.[13] And while the Commission's National Advisory Council ("NAC") meets annually to "work with Federal Emergency

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[11] *See* Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed January 13, 1993; Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed November 12, 1993; NAB Petition for Partial Reconsideration, FO Docket Nos. 91-301 and 91-171, filed January 27, 1994; Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed February 22, 1995; NAB Reply to Oppositions, FO Docket Nos. 91-301 and 91-171, filed March 6, 1995; and Comments of NAB on Second Notice of Proposed Rulemaking, FO Docket Nos. 91-301 and 91-171, filed April 20, 1998.

[12] *Notice* at ¶ 6.

[13] *See* Comments of NAB, FO Docket Nos. 93-171, 93-301, November 23, 1993 at 4.

Management Agency [FEMA] . . . and industry to enhance the new EAS,"[14] an important facet of this dialogue between FCC and FEMA has been overlooked. NAB again calls on the Commission to further explore the option of federal funding – to stations directly or through grants to individual state emergency plans – to help defray the cost of EAS equipment upgrades and/or conversions. While participation in state and local area EAS plans is voluntary, as a practical matter, nearly all broadcasters are full participants. Many broadcast stations directly monitor the National Oceanic Atmospheric Administration ("NOAA") Weather Radio ("NWR") Specific Area Message Encoding ("SAME") transmissions and relay those messages to their audience over the EAS.[15]

Thus, while NAB understands the Commission's wish not to "impose additional costs or burdens on broadcast stations and cable systems *that choose not* to participate in state and local area EAS plans,"[16] NAB urges the Commission to look at defraying costs to encourage full participation in the EAS program. It is clear that the national, state and local public interests – and the interests of various levels of government – are served by an efficient EAS provided over electronic mass media services. As such, it would appear more than appropriate for the government to contribute financially to the proposed EAS upgrades.

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[14] *EAS Report and Order* at ¶ 39.

[15] Part 11 of the Commission's Rules specifically provide that EAS codes must be compatible with NWR-SAME. See 47 C.F.R. § 11.31.

[16] *Notice* at ¶ 6 (emphasis added).

B. The EAS Patent Issue Remains Unresolved.

As articulated in the initial *Report and Order*, it was the intention of the Commission that "EAS . . . use a standard, ***non proprietary*** protocol that includes a digital header code, the Attention Signal, the emergency message, and an End Of Message (EOM) code."[17] Beginning in 1998, however, broadcasters began to receive notices from Quad Dimensions, Inc. ("QDI") that the company held patent rights to the EAS equipment broadcasters were required to purchase pursuant to the Commission's implementation of the EAS.[18] QDI asked each broadcaster to sign a patent licensing agreement and pay QDI a minimum of $1495 in patent licensing fees.[19]

Early the following year, NWS issued a statement that since ". . . the EAS system is based on technology previously developed by NWS, the validity of the QDI patent is subject to question also on this basis."[20] NWS asked the U.S. Patent Office to reexamine

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[17] *EAS Report and Order*, Fed. Reg., Vol. 59, 67090, 67091 (December 8, 1994) (emphasis added).

[18] Letter from Michael A. Fessler, President, QDI, to Radio and Television Broadcast Stations, December 29, 1998. The fees specified in the license agreement are $240.00 for 1999 and $180.00 for all subsequent years' use of EAS equipment (though the license agreement notes that stations "may opt to pay the total royalty amount . . . at a lump sum discount rate amount of $1495.00). The agreement also requires payment of late fees for delayed payment. In addition the agreement had several provisions, including a requirement that broadcasters police the use of and notify QDI of any suspected infringement or unauthorized use of the of the Storm Alert For Emergencies ("SAFE") Patent.

[19] *Id.*

[20] Press Statement of the NWS, rel. February 1, 1999. *See also* Letter from Edward O. Fritts, President, NAB, to William Kennard, Chairman, FCC, and Honorable John J. Kelly, Jr., Director, NWS, February 4, 1999.

QDI's patent claim on EAS technology.[21] To date, the United States Patent Office has not released a reexamination certificate.

It has been over two years since NAB asked the Commission to take additional steps to prevent broadcasters from being caught between two conflicting federal pressures – compliance with patent laws and adherence to FCC regulations.[22] As Congressman Greg Walden aptly stated, "[b]roadcasters should not be held responsible for unforeseen costs created by the FCC's regulations."[23] Although then-Chairman Kennard recognized "the need for quick resolution to the patent matter,"[24] the U.S. Patent Office's reaffirmation of the SAFE Patent makes all the more urgent why prompt action by all involved agencies is necessary. Broadcasters must be absolved of any financial or other liability that otherwise might be brought about by their compliance with current FCC rules.

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[21] QDI's Patent Abstract, No. 5,121,430, is so general in terms as to cover a:

> geographically specific emergency alert system includes a code generator unit in which geographic areas to be alerted and types of severity of alerts are selected and code strings generated to represent the affected areas and alert types selected. The code strings are broadcast by modulating the audio carrier of a television signal and received on receiver units positioned in areas within the broadcast market of a television station providing the alerting service. Location codes or entered into the receiver units by the users according to the areas in which the receiver units are used. When an alert is broadcast, each receiver unit decodes a location code string in the signal. If it matches that set on the receiver, an alert code string is decoded to activate a alarm devices connected to the receiver, such as an audible alarm generator, LED, etc., in accordance with the type or severity of alert that was broadcast.

[22] Letter from Edward O. Fritts, President, NAB, to William Kennard, Chairman, FCC, and Honorable John J. Kelly, Jr., February 4, 1999.

[23] Letter from the Honorable Greg Walden to William Kennard, Chairman, FCC, February 8, 1999.

[24] Letter from William Kennard, Chairman, FCC, to Edward O. Fritts, President, NAB, February 22, 1999.

Thus, NAB again calls on the Commission to resolve this important issue. Can, for example, the FCC adjust its EAS rules in a fashion that will not mandate patent infringement but nonetheless will result in reliable relay of emergency information to the public? Alternatively, if the Commission's rules require the use of QDI's SAFE patent, then the federal government should seek either a blanket patent license or subsidize broadcasters for the cost of a SAFE patent license agreement.

V. IN LIGHT OF THE PROPOSED EAS CHANGES, THE COMMISSION SHOULD REEXAMINE ITS POLICY ON CABLE OVERRIDES.

Beginning in 1993, NAB formally asked the Commission to craft EAS regulations so that local viewers would maintain access to critical, timely, and updated information aired by local television stations during emergency conditions and when related, newsworthy events are occurring.[25] Specifically, we petitioned the FCC to amend its rules to allow for "selective override" – that is, the FCC should mandate cable operators' use of a simple filter system which enables a cable operator to omit certain channels

[25] *See* Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed November 12, 1993 at 14-16; NAB Petition for Partial Reconsideration, FO Docket Nos. 91-301 and 91-171, filed January 27, 1994; Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed February 22, 1995; NAB Reply to Oppositions, FO Docket Nos. 91-301 and 91-171, filed March 6, 1995 at 4-9, Comments of NAB on Second Notice of Proposed Rulemaking, FO Docket Nos. 91-301 and 91-171, filed April 20, 1998, Reply Comments of NAB on Second Notice of Proposed Rulemaking, FO Docket Nos. 91-301 and 91-171, filed May 5, 1998. *See also* Letter from Edward O. Fritts, President, NAB, to Beverly Baker, Chief, FCC Compliance and Information Bureau, May 30, 1997; Letter from Edward O. Fritts, President, NAB, to Reed Hundt, Chairman, FCC, May 30, 1997; Letter from Edward O. Fritts, President, NAB, to Hon. James Lee Witt, Director, FEMA, May 31, 2000; and Letter from Edward O. Fritts, President, NAB, to Hon. Greg Rohde, Assistant Secretary for Communications & Information, NTIA, July 18, 2000.

selectively during an EAS interruption.[26] The cost of such a system is incremental, with costs ranging from about $10,000-15,000 per cable facility.

To date, the Commission has refused to mandate only "selective override" of broadcast stations.[27] The Commission's rationale is that the "record further suggests that because broadcast stations often serve a wide coverage area crossing hundreds of communities, they may not cover local emergencies that affect only a single community." *Id.* at ¶ 13. As discussed above, however, the proposed EAS event code and location code modifications have the potential of distributing event-specific and site-specific information to communities. Combined with live news coverage of:

- Storm tracking of tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, wild fires, forest fires, mudslides, warnings and watches of changing weather conditions;
- The status of any discharge of toxic gases, widespread power failures, industrial explosions, nuclear facility incidents, civil disorder;
- School closings, school schedule delays and school bus routing changes,

local signals would provide more useful and in-depth emergency or related information than that which might be generated by a cable television operator. And should a cable system "override" a television station during a local or national emergency, *all viewers* (including the hearing-impaired who would be denied accessed to close-captioned news

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[26] NAB maintains that cable overrides violates federal law. Section 614(b)(3)(B) of the Communications Act *explicitly requires* that cable systems carrying television stations must "carry the entirety of the program schedule" of such stations, unless carriage of specific programming is prohibited under the Commission's network nonduplication, syndicated program exclusivity or sports blackout rules; and Section 614(b)(3)(A) requires cable operators to carry "in its entirety . . . the primary video [and] accompanying audio . . . of each of the local commercial television stations are carried on a cable system."

[27] Third Report and Order, FO Docket Nos. 91-171 and 91-301, rel. December 23, 1998.

coverage) could be denied the critical and life-saving information detailed above. Surely, the intent of the EAS and FEMA is to empower people with accurate, up-to-the-minute information during emergency situations. Thus, NAB urges the Commission to take this opportunity to revise its cable EAS rules to mandate only "selective override" of broadcast stations.

VI. CONCLUSION.

For the above-mentioned reasons, while NAB generally supports efforts to enhance EAS features and performance during state and local emergencies, these enhancements would necessitate EAS equipment modification and/or software upgrades. NAB urges the Commission to factor these costs into any present or future assessment of the EAS system.

Respectfully submitted,

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June 11, 2001

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List of Applicants/Petitioners re EB Docket No. 01-66, Rulemaking Numbers 9[illegible]9215

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Dated: June 11, 2001

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