

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

In the Matter of:)
)
Review of the Emergency Alert System) EB Docket No. 04-296
)
To: The Commission)

**Initial Regulatory Flexibility Analysis
Comments**



I. Introduction.

ACA submits these Comments in response to the Initial Regulatory Flexibility Analysis (“IFRA”) appended to the Commission’s Review of the Emergency Alert System.¹

ACA’s members, many of whom are very small cable systems, share an important interest in reducing any disproportionate burdens imposed by the Commission’s EAS rules. Consequently, we ask the Commission to act expeditiously to provide relief for very small systems.

Without expedited adjustments to the EAS regulations, the Commission will face the following paradox: All very small systems currently deliver EAS messages aired on broadcast channels and certain satellite channels. The costs of installing EAS equipment will force many very small systems to shut down. As a result, rural

¹ *In the Matter of Review of the Emergency Alert System, Notice of Proposed Rulemaking*, FCC 04-189, EB Docket No. 04-296 (rel. August 12, 2004) (“EAS NPRM”), Appendix A, Initial Regulatory Flexibility Analysis.

consumers who currently receive some EAS messages via cable will then receive no EAS messages via cable. Neither the public interest nor the statutory goals of Section 624 will be served by this result.

II. Requested Relief.

Specifically, we propose the following three adjustments to the EAS regulations:

- **Small system relief.** Small systems serving more than 1,000 subscribers that are currently subject to an EAS waiver would have until October 1, 2007, to comply with Section 11.11. During that period, these systems would be obligated to pass through EAS messages contained in broadcast and satellite channels carried on the systems. This change will provide more time for a small group of financially distressed systems to comply with the regulations.
- **Very small system relief.** Systems serving 1,000 or fewer subscribers would be obligated to pass through EAS messages contained in broadcast and satellite channels carried on the systems. This will ensure that subscribers receive available EAS messages inserted at the programming source. This will also provide ample time for the Commission, Congress, and other agencies to evaluate changes to the current EAS system.
- **Customer notice.** Small cable operators without EAS equipment would provide subscribers with a simple written notice listing the programming services that carry EAS messages. A notice would increase consumer awareness of where they can find EAS messages on very small cable systems. This notice would be based on a list disseminated by the Enforcement Bureau of satellite channels that have provided notice of voluntary participation under 47 CFR § 11.43.

III. The Regulatory Flexibility Act.

The Regulatory Flexibility Act requires the Commission in its initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities.² The IRFA must contain a description of any significant alternatives to the proposed rule that would accomplish the stated objective of the statute and that would minimize any

² 5 USC § 603(a).

significant economic impact of the proposed rule on small entities.³ An example of an alternative includes an “exemption from coverage of the rule, or any part thereof, for such small entities.”⁴

The Commission has a statutory obligation to consider the impact any Commission action would have on small entities. Economic realities require the Commission establish an alternative treatment for small cable companies. Because of the impact on small cable systems as discussed above, in ACA’s Comments and Reply Comments, and on the record, the Commission must address these issues and include a comprehensive discussion of the impact its actions will have on small cable in its Final Regulatory Flexibility Analysis.

Respectfully submitted,

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³ 5 USC § 603(c).

⁴ 5 USC § 603(c)(4).