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

In the Matter of	
Review of the Emergency Alert System (Concentration on Digital Cable)	EB Docket No. 04-296

Comment Letter

Introduction

I write this comment letter in support of a more robust and effective Emergency Alert System (EAS). The Federal Communications Commission (FCC) must address the transition from analog towards digital cable. Digital Cable has many superior benefits to analog, and thus many households are now reaping the benefits of digital cable. However, while digital cable subscribers are enjoying their clear, digital picture, they are unable to receive valuable emergency warnings because digital cable is not included in the EAS. This must change because digital cable is making analog cable obsolete; and with a large percentage of American households unable to receive warnings from the EAS, the FCC is failing to maintain an effective and robust national alert and warning system. More importantly, the FCC is failing to adequately protect the citizens of the United States.

Congress stated in the 1992 Cable Act that cable providers are to provide subscribers with the same type of alert system as the broadcasters.[1] In 1992 the digital cable technology was not yet invented, thus in order to serve the public interest of

[1] In the Matter of Review of the Emergency Alert System, *First Report and Order and Further Notice of Proposed Rule Making,* EB Docket No. 04-296 (released November 10, 2005) ("*Order").*

Congress, the FCC must ensure the digital cable subscribers are afforded the life saving alert system that broadcast viewers are presented. This can only be done if the FCC acts immediately and includes digital technologies in the present EAS rules.

In order for the FCC to stay in touch with their intentions for the EAS, they must keep pace with technology.

Importance of a Warning System

Nearly every night I sit down to watch the news, and more often than not there is some story regarding a natural disaster, extreme weather event, or terrorism. In the year 2006, we must be aware of the times in which we are living. There are many different suggestions as to why recent weather has been so dramatic and severe; nevertheless one cannot ignore the devastation that has occurred from numerous recent natural disasters. As citizens of the United States we must always be aware of the devastation that could occur from hurricanes, tornadoes, earthquakes, floods, mudslides, and other disasters; however the events of September 11, 2001 have increased this awareness in the United States exponentially.

We are currently involved in the War on Terror. Although many citizens do not support the war, we all remember the acts that occurred on the morning of 9/11. Terrorism is hard to defend against because many terrorists are willing to die for their cause. Terrorists are not just found over seas, they can also be found across the United States. Acts off terrorism can come in different forms, for instance; nuclear, chemical, biological, or with other methods similar to using airplanes as bombs.

Unfortunately, the world is not as safe as we would hope it to be. American citizens must be made aware when their lives, or those of their loved ones, are at risk. The best methods of reaching out to citizens that are in dire need are through the telecommunication systems, as the FCC has done with the EAS

History

In 1951, President Harry S. Truman noticed that the telecommunication system was a natural device to use to provide citizens with a national warning system. This inspiration eventually took the form of the Emergency Alert System (EAS). The FCC adopted the EAS rules in 1994. At that time the purpose of the change to EAS was to respond to technological advancements.[2]

Since 1994, technology has continued to advance at astonishing rates. By the time a certain technology makes its way to the consumer it is already out-dated in comparison to new technology that is being created. For this reason, the FCC is forced to continue to update its rules and guidelines to account for these changes. Certain advances in telecommunications have created the need for the FCC to make certain changes and additions to the EAS standards. Quite simply put, EAS does not reach as many households as intended because many households have decided to replace their analog technologies with superior digital technologies. Every year a growing number of households switch from analog to digital. Thus, what good is the EAS if citizens who have digital technology are not able to get the EAS warnings? Clearly, the FCC must address this issue to require the digital service providers to take part in the EAS.

[2] *See Id.,* ¶ 4.

The Duty of the FCC

The FCC has a very significant duty. Through telecommunications, the FCC must promote safety of life and property.[3] In doing this, the FCC decided that a national warning system could work towards saving both life and property. Thus, as mentioned, the EAS was created. However, in order for the EAS to adequately protect both life and property, it must be effective and robust. The FCC created a system that was both effective and robust; however, technological changes have forced the FCC to respond with new rules and regulations in order to met these standards.

In this current matter, the FCC has acknowledged that the shift from analog to digital has forced them to expand the EAS in order to keep the system robust and able to effectively serve and protect the safety of life and property.

In addition to the FCC, both the Senate and the House of Representatives claim that one of their highest priorities is to have an effective alert system.[4] Currently the EAS rules do not satisfy this priority, thus expansion into digital communication would allow for a more effective alert system.

Natural Disasters and the Need for a Warning

In support of making the EAS more robust and effective by including digital communication devices, I thought it would be important to look at the recent disasters that have taken lives in the United States and beyond.

The tsunami that raged through the Indian Ocean is the most prominent instance of why a warning system can be so important in saving human lives. The tsunami was

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[3] *See Id.*, ¶ 1.
[4] *See Id.*, ¶ 14.

fast approaching, but there was enough time for there to be a warning. The video that I have seen from Sri Lanka is very unsettling. I believe that if there had been an effective warning system in place, people would have been more aware of the approaching tsunami. This warning could have easily saved hundreds, if not thousands of lives.

In the United States, there has not been a more tragic natural disaster than the hurricanes of 2005. The disaster in New Orleans and the Gulf Coast from Hurricane Katrina will forever be remembered. It appeared that there was a lack of communication and instruction given to the locals. I can only think that if there was a better, more effective EAS many lives could have been spared. The EAS is used, not only as a warning, but as a way for the President, or other authorities, to provide information and instructions. This information could be life saving, thus it should be able to reach as many people as possible by any means necessary.

Opponents of the expansion of the EAS believe that it may be too costly for digital cable providers or that it will affect their programming. I believe that the FCC should do all they can to help prevent loss of life and property. Thus the FCC must find a way to minimize cost and assist those providers with limited capital. Natural disasters can wipe out cities, tear apart families, and devastate economies; a more effective EAS can help minimize the devastation.

A Changing Communications Landscape

Digital Cable is not specifically addressed in the EAS rules. Thus we must determine how detrimental this lack of acknowledgement is to the basic principles and goals of the FCC. The FCC wants a robust and adequate alert system. As mentioned in

the report, approximately 23% of US households subscribe to digital cable.[5] Clearly the EAS is not as effective or robust as it once was.

In relation to analog, digital communications, especially digital cable, have numerous benefits. Digital communications allow for more efficient storage, less degradation, and digital information can be reformatted easily to fit various applications. Digital copies can be duplicated an infinite amount of times with each copy consisting of the same quality; whereas, analog information loses quality each time it is copied. Also, a digital picture is an all or nothing signal, thus there is no variance in picture, sound quality, or signal. This leads to a great picture that is free of any ghosting, interference, or noise. Digital bandwidth carries more channels than analog, therefore this allows for more consumer choices because there is higher channel capacity.

As a current digital cable subscriber, I can personally attest to the benefits of digital cable. The video "on-demand" feature allows consumers to watch certain programming at their convenience. Subscribers are also able to order certain new releases from the comfort of their homes. Also, there are numerous digital, commercial free music channels available to the consumers. It is clear that there are numerous benefits to digital cable, and it is shown in the statistics.

Included in the Order in Appendix C, was data on the penetration of digital cable in the communications marketplace. As of June of 2005, there are approximately 26,000,000 digital cable subscribers. This is a tremendous number of subscribers compared to the 6,000,000 digital cable subscribers in June of 2000. Over a five year period, there has been an increase of 20,000,000 subscribers. This signifies that 20,000,000 households are unable to receive the national warning and alert system, thus

[5] *See Id.,* ¶ 29.

making the EAS not as robust or effective as it once was.[6] Also during this period, 2000-2005, the need for an effective alert system has increased after recent terrorism attacks and natural disasters.

This trend from analog technology to digital technology is sure to continue. As digital cable continues to get more exposure, many more subscribers will leave their inferior analog cable for the superior digital cable services. I believe that analog cable will be obsolete in the very near future. Already, analog televisions are nearly obsolete. All of the new televisions are digital and most of the technology is digital.

In addition to digital cable, many other newer technologies are overtaking analog radio and television. Digital audio broadcasting (DAB), Direct Broadcast Satellite (DBS) and satellite digital audio radio services (SDARS) are becoming increasingly prevalent. This present matter also asks for the inclusion of these technologies in the EAS rules. These technologies must also be included in the EAS rules in order for the system to be robust and effective. SDARS and DAB are relatively new technologies and it can be expected that the percentage of households that subscribe to these systems will increase significantly over the next few years.

Due to the fact that technology is always improving and changing, the FCC must take notice and keep pace with the ever changing telecommunications landscape. The FCC is a leader in introducing new technology and regulating such technology for consumer well being. Possibly the most important responsibility of the FCC is the current matter I am commenting on. Thus this inclusion of digital technologies in the current EAS system should be a priority to the FCC, and I believe that in regards to digital cable, inclusion is long overdue.

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[6] *See Id.,* Appendix C-2.

Requirements

Although the Order mentions how digital technologies can improve the EAS, I believe that the most important issue is to get the current EAS template used by these newer technologies, such as digital cable. Requiring the digital cable providers to use the EAS should not impose any significant financial burdens. Whatever financial burdens are present will be greatly outweighed by the benefits of saving life and property.

The FCC is not asking the digital cable providers to do too much. They are simply giving the cable providers a choice on how they can conform their technology to the EAS to ensure that all the digital cable viewer are able to receive the EAS message on whatever channel they are watching. The choices are putting the EAS warning on every channel or the cable providers can transmit the EAS message on a reserved channel and force tune the subscriber to the predetermined channel if the EAS is employed.[7] These are the methods that the FCC will allow the providers to choose from. This should not put any significant burden on the digital cable providers as compliance with the EAS will require a minimum amount of modification. The FCC has noted that the digital cable providers are already familiar with the EAS equipment and that the equipment is already installed in anticipation that it will eventually be included in the EAS rules. Thus, it seems that the last step it for the FCC to include digital cable in the rules.

I disagree with the Commission's posture on obligations of the digital cable providers in reference to when they are required to activate the EAS. The FCC is only asking for mandatory activations on national alerts from the President while keeping

[7] *See Id.,* ¶ 32.

state and local alerts voluntary to the cable providers.[8] I strongly disagree with these obligations. I believe that state and local alerts must be mandatory activations of the EAS. I don't consider it a good proposal to give digital cable providers this type of discretion that could possibly result in the loss of life. I believe that the cable providers are going to weigh other irrelevant factors against activating the EAS for state and local warnings. The cable providers will look at their current programming and advertisement revenue to determine if they should activate the EAS. This balancing is not fair for the digital cable subscribers, and it is definitely not in the best interest of public safety.

I propose that the FCC should take a more stringent stance on the obligations of the digital cable subscribers. I agree that it should be mandatory for them to activate the EAS for all national warnings. However, I believe that they should also be required to activate the EAS on all potentially life threatening state and local warnings. This will ensure that the EAS is doing all that it could to help protect the lives of the United States citizens. For other non life threatening warnings and alerts, the providers can choose to activate the EAS on a voluntary basis. I believe that by taking this posture, the FCC will be more in tune with its obligation of promoting safety of life and property through telecommunications.

The FCC is requiring that all digital cable providers comply with the EAS rules by December 31, 2006.[9] I believe that this is a fair deadline; however I would encourage the digital cable providers to comply with the EAS rules as soon as possible because, according to experts, we are slated to have a worse hurricane season this year than the

[8] *See Id.,* ¶ 30.
[9] *See Id.*

devastation that occurred in 2005. For this reason I believe the sooner the EAS begins operating uniformly, through all telecommunications, the better.

I understand that very small digital cable providers may be more financially burdened than the larger providers. Although the EAS equipment is not extraordinarily expensive, those with less than 1,000 subscribers may be financially impacted. Although digital cable is a somewhat newer technology, it has significant competition from other systems, including Direct Broadcast Satellite. Thus if these smaller providers, who are making nominal profits, are forced to purchase the EAS equipment, it could price them out of the market or force them to shut down.[10] Some small cable providers believe that they should be exempt or should be required to comply with an inferior EAS.

When non-digital cable stations were originally required to air EAS messages, many of the small cable systems receive waivers because they could not afford the purchase of the EAS equipment. Many small cable providers want these waivers to be extended. I oppose this proposal and I believe that all cable providers should be required to relay EAS warnings. Thus the only way to make sure small cable systems are able to install the equipment and continue business would be for the government to find a way to fund the installation of the EAS equipment for the small cable providers. However, the equipment must be upgraded on occasion, thus the government would also have to fund any upgrades.[11]

I propose that the FCC or Congress give relief to these smaller cable providers so that they may provide their subscribers with effective and adequate EAS messaging while still staying competitive in the marketplace.

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[10] Charter Communications, Inc. Comments (October 29, 2004) p.2.
[11] *See Id.,* p.8.

The Future: A Digital EAS

The future of the EAS looks bright. Through digital technology there is room for much improvement. Although I believe that the most pressing issue is to get digital cable providers to be required to abide by the current EAS rules, I would like to address some of the potential improvements that could be on the horizon for the EAS.

As mentioned in the Order, the current EAS system consists of a chain of communications that begins at the request of the President. From the President, FEMA distributes the message to Primary Entry Point stations, then the messages go to local area stations, followed by Local Primary stations and then finally they reach the EAS source.[12] From this EAS source, the local broadcast stations are required to air the national alert messages. This chain of communication of the message is very confusing and time consuming. Multi-level chains, such as the current EAS, are not very efficient and they are subject to time delays and possible errors in translation and relaying.

A digital EAS would significantly improve this "chain system" because digital technology will allow for there to be a direct link that reaches all stations at the same time with the same message.[13] This will cut down on any errors in transmission of the message and also can get the messages to the public more rapidly with improved clarity, thus possibly saving both life and property.

In addition to improving the manner that EAS messages are transmitted, digital technology can also improve the actual messages. Digital technology allows for more interactive viewing, thus the potential for interactive warnings are a possibility. Also,

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[12] *See Order,* ¶ 9.
[13] Cox Broadcasting, Inc. Comments (October 29,4004) at p. 7.

the FCC can create messages that relay the message and instructions better. We have all heard the beeps, followed by a static sounding voice saying that it is the Emergency Alert System. For such a technologically advanced nation in a matter that is so important for the conservation of human life, the current messages are ineffective and unsophisticated. However, digital technology will definitely improve the actual messages.

I am excited to see how digital technology will affect the current EAS. However, as I previously mentioned, we should first concentrate our efforts on requiring digital cable providers to abide by the current EAS system. After the new rules are in place, the EAS can then be modified or replaced by a more sophisticated digital alert and warning system.

EAS Testing, Undermining the System

When I hear an EAS test on television I am immediately annoyed because, more often than not, it is in the middle of a program or sporting event I am watching. This upsets me because the programming is not paused; it just is pushed aside by the EAS test. The test is annoying because it interrupts your programming but it also consists of terrible sounds that make you want to turn off the television. I believe something needs to be done regarding these on the air tests.

The FCC has very strict testing procedures for the EAS. I believe that these tests procedures are a major reason as to why cable providers and other services do not support the current EAS rules. On the air tests interrupt programming and advertising and become disruptive to cable service providers and subscribers alike. Cable providers understand testing is needed to ensure that the system is running properly, however

there is an alternative to on the air testing. Currently cable providers must test the system a multitude of ways and at various times. Some of the tests are on the air and others are just tests on the equipment.[14]

I support the cable systems in arguing that on the air tests are not necessary and that they should be replaced by non-broadcast tests. This will allow for the same conclusions and it will not interrupt the scheduled programming. In addition, there is a theory that repeated tests by the EAS can become a public nuisance which may cause the public to begin ignoring such tests by turning off the television or muting the sound.[15] If this is the case, these on the air tests would be undermining the effectiveness of the EAS.

I suggest that the FCC put an end to on the air tests of the EAS. Not only are they annoying to the citizens, but they are not necessary to ensure the system is working properly. If such tests are in fact undermining the effectiveness of the EAS then they should be eliminated immediately and replaced with comparable non-broadcast tests.

Conclusion

The FCC must immediately include digital cable and other digital technologies in the present EAS rules. According to the intentions of the EAS, in order for the EAS to be an effective and robust national alert system, all relevant technologies must be included. Digital cable reaches approximately one-quarter of the households that own a television.

[14] *See Order,* Appendix B, 47 C.F.R. §11.61.
[15] Cox Broadcasting, Inc. Comments (October 29,4004) at p. 8.

Thus the current EAS can only be viewed as a semi-national alert system because there are a large percentage of citizens who can not be reached by the EAS.

By including digital cable in the current EAS rules, the FCC can ensure that the EMS could reach a great majority of the citizens of the United States in a time of an emergency. This is very important because of all the recent natural disasters and acts of terrorism that have resulted in loss of life and property. Once implemented, the FCC could then focus on improving the EAS and possibly creating a more sophisticated digital alert system. Inclusion of digital technologies in the EAS, by any means possible, should be the primary objective of the FCC because it is imperative for public safety.

Respectfully Submitted,

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