

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

In the Matter of

The Commercial Mobile Alert System

PS Docket No. 07-287

**COMMENTS OF 3G AMERICAS**

3G Americas, the leading industry association representing the Global System for Mobile (“GSM”) family of technologies<sup>1</sup> in the Americas, submits these comments in response to the Commission’s *Notice of Proposed Rulemaking* (“*NPRM*”) in the above-referenced proceeding.<sup>2</sup> 3G Americas has a broad membership of leading wireless operators and vendors who, collectively, facilitate the seamless deployment of the GSM evolution to 3G and beyond throughout the Americas.<sup>3</sup> 3G Americas has been actively engaged on the subject of mobile alerts for several years and offers the following

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<sup>1</sup> These technologies include GSM, Enhanced Data Rates for Global Evolution (“EDGE”), Universal Mobile Telecommunications System/High Speed Packet Access (“UMTS/HSPA”), and Long Term Evolution (“LTE”).

<sup>2</sup> *The Commercial Mobile Alert System*, Notice of Proposed Rulemaking, PS Docket No. 07-287 (rel. Dec. 14, 2007) (“*NPRM*”).

<sup>3</sup> 3G Americas members include Alcatel-Lucent, Andrew Corporation, AT&T, Cable & Wireless, Ericsson, Gemalto, Hewlett-Packard, Motorola, Nokia, Nortel, Openwave, Research In Motion, Rogers Wireless, Telcel, Telefónica, Texas Instruments, and T-Mobile.

comments to share with the Commission as it considers the issue of a Commercial Mobile Alert System (“CMAS”).<sup>4</sup>

**I. 3G AMERICAS HAS STUDIED THE FEASIBILITY OF VARIOUS MOBILE ALERT TECHNOLOGIES**

3G Americas supports mobile operators throughout the Americas in the evolution to third generation technologies via the GSM family of technologies. Working in cooperation with other global standards organizations such as 3GPP and ETSI, regulatory forums such as CITELE, and regional organizations such as ASETA, 3G Americas helps to ensure a successful transition for operators and their customers to high-speed, third generation wireless services. 3G Americas maintains a Technology Center that provides technical and statistical information on the GSM family of technologies and publishes technical white papers on the delivery of GSM-based services.<sup>5</sup>

In 2005, 3G Americas began to evaluate near-term technical options for wireless emergency alerts, as well as potential future capabilities.<sup>6</sup> Through its studies, 3G Americas determined that nascent alerting solutions would come at substantial cost to the carriers, and would require new user devices. In addition, 3G Americas found that most solutions were technically complex and could have substantial impacts on carrier networks. To address these issues, 3G Americas asked the Commission to establish an

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<sup>4</sup> See, e.g., *Review of Emergency Alert Systems*, 3G Americas letter and presentation, EB Docket No. 04-296 (filed Oct. 21, 2005).

<sup>5</sup> See, e.g., 3G Americas, *QoS Interoperability and Policy Management Recommendations* (Dec. 19, 2007), [http://www.3gamericas.org/PDFs/3GAmericas\\_QoSPolicy\\_Dec19-07.pdf](http://www.3gamericas.org/PDFs/3GAmericas_QoSPolicy_Dec19-07.pdf).

<sup>6</sup> See, e.g., *Review of Emergency Alert Systems*, 3G Americas Reply Comments, EB Docket No. 04-296, at 1-2, (filed Feb. 23, 2006).

open, face-to-face, interactive forum through which all interested parties could define requirements and discuss feasible solutions.<sup>7</sup> 3G Americas therefore welcomed the creation of the Commercial Mobile Services Alert Advisory Committee (“CMSAAC” or “Advisory Committee”),<sup>8</sup> in which several of its members participated.

## **II. THE WARN ACT REQUIRES THE COMMISSION TO ADOPT CRITERIA BASED ON THE CSMAAC RECOMMENDATIONS**

Congress enacted the Warning Alert and Response Network (“WARN”) Act in October 2006 to establish an advisory committee to develop recommendations for technical requirements and processes necessary for electing commercial mobile service providers to transmit emergency alerts to subscribers.<sup>9</sup> Congress expected the Commission to follow those recommendations. Indeed, the very first section in the WARN Act provides a deadline by which the Commission must adopt technical requirements *based on the recommendations* of the industry Advisory Committee.<sup>10</sup> Congress did not contemplate that the Commission would solicit comments on proposals other than the recommendations of the Advisory Committee.<sup>11</sup> In fact, Congress

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<sup>7</sup> *Id.*, at 1-2, 4; *see also Review of Emergency Alert Systems*, 3G Americas Ex Parte, EB Docket No. 04-296 (filed June 21, 2006).

<sup>8</sup> *See FCC Requests Nominations for Membership on the Commercial Mobile Service Alert Advisory Committee to be Established Pursuant to the Warning, Alert, and Response Network Act*, Public Notice, DA 06-2037 (Oct. 16, 2006).

<sup>9</sup> *See Security and Accountability for Every Port of 2006*, Pub. L. 109-347, § 603(c), 120 Stat. 1883, 1939 (2006) (“WARN Act”).

<sup>10</sup> *Id.* 120 Stat. 1936 § 602(a).

<sup>11</sup> At the legislative hearing on the Act, the U.S. House of Representatives’ Committee on Energy and Commerce Subcommittee on Telecommunications and the Internet heard testimony from CTIA- The Wireless Association’s Vice President, who commended the bill’s sensible process of having an expert working group of

summarized WARN as an Act that “requires the Federal Communications Commission to complete a proceeding to adopt relevant technical standards, protocols, procedures, and other technical requirements *based on the recommendations* of the Commercial Mobile Service Alert Advisory Committee that will enable commercial mobile service providers to transmit emergency alerts.”<sup>12</sup> The actual provisions of the Act likewise evince an interest in minimizing Commission discretion,<sup>13</sup> and Congress specifically directs the Commission to consult with the National Institute of Standards and Technology regarding the adoption of technical standards.<sup>14</sup> Consequently, the Commission must not deviate from the CMSAAC recommendations in promulgating rules implementing a CMAS.

The Commission’s general obligation to promote the safety of life and property through the use of wire and radio communication<sup>15</sup> does not trump the more specific, and

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government officials and industry experts establish an alert service description and develop standards, based on industry’s existing capabilities and planned evolution. *Shinkus-Wynn Bill, Expanding Emergency Alert System: Hearing before the Subcommittee on Telecommunications and the Internet of H. Comm. on Energy and Commerce, 106<sup>th</sup> Cong. 4-5 (2006)* (statement of Chris Guttman-McCabe, Vice President, Regulatory Affairs, CTIA-The Wireless Association®) (“EAS Hearing”).

<sup>12</sup> H.R. Rep. No. 109-751, at 196 (2007) (emphasis added); *see also* EAS Hearing (statement of Rep. Joe Barton, Chairman, H. Comm. on Energy and Commerce) (“And, importantly, the Warn Act requires the creation of a Working Group made up of government officials and experts in industry and public safety. With the input of all interested parties, we can create a vibrant emergency alert system that is consistent, redundant, and most importantly, reliable.”).

<sup>13</sup> See WARN Act 120 Stat. 1938 § 602(d).

<sup>14</sup> *Id.* 120 Stat. 1936 § 602(a).

<sup>15</sup> *See* 47 U.S.C. §151.

more recent WARN Act.<sup>16</sup> The Act clearly requires the Commission to adopt technical requirements for an alert system for mobile providers “based on the recommendations of the [CMSAAC].”<sup>17</sup> In the *NPRM*, the Commission specifically asks what other statutory authority it may have, independent of the WARN Act, to implement a mobile alerting system.<sup>18</sup> 3G Americas respectfully notes that the Commission has no other statutory authority vis-à-vis CMAS. Absent new, more specific legislation on mobile alerts, the Commission does not have authority to adopt technical requirements and processes for a CMAS other than one based on the recommendations of the CMSAAC.

Moreover, in promulgating the Act, Congress clearly intended to establish a comprehensive forum to facilitate effective dialog regarding technical requirements and possible solutions for emergency alerts. CMSAAC membership was intentionally expert, broad, and open to the public.<sup>19</sup> Representatives from wireless and equipment providers, state and local governments, tribal organizations, and advocates for the elderly and those with special needs all reviewed proposals and developed options over the course of a year-long process. The CMSAAC held high-level meetings to study the hurdles that various wireless technologies present for implementing a functional CMAS.

The CMSAAC spent months studying the different challenges presented by various transmission technologies, including GSM, CDMA and iDEN, standards

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<sup>16</sup> See, e.g., *Tug Allie-B, Inc. v. United States*, 273 F.3d 936, 948 (11th Cir. 2001) (citing the “long-standing principle that, if two statutes conflict, the more recent or more specific statute controls”).

<sup>17</sup> See WARN Act 120 Stat. 1938 § 602(a).

<sup>18</sup> See *NPRM* at ¶ 42.

<sup>19</sup> WARN Act 120 Stat. 1940 § 603(b)(3) (providing that the Advisory Committee should include “subject matter experts” – described as “individuals who have the requisite technical knowledge and expertise to serve on the Advisory Committee in the fulfillment of its duties”).

necessary for a CMAS that incorporates differing transmission technologies, and the impact of a CMAS on 3G deployment. The CMSAAC analyzed possible requirements for standardized alerting protocols and processes. It also examined the ways in which mobile devices might best be used to alert users, including those with special needs, taking into account the limitations of small, wireless devices.

The CMSAAC recommendations represent a balance of these competing considerations, to best ensure a successful CMAS. All this technical work, not to mention Congress's intent of requiring the Commission to adopt requirements based on CMSAAC recommendations, would be vitiated if the Commission now considers recommendations advanced by a single company outside the CMSAAC process. Moreover, the public interest in a predictable regulatory process, and an expedited CMAS, would be undermined if after a year's worth of deliberations, discussion of technical requirements could start anew.

### **III. CMSAAC'S RECOMMENDATIONS SHOULD BE ADOPTED WITHOUT MODIFICATION, ESPECIALLY THE GEO-TARGETING RECOMMENDATIONS**

The Commission seeks comment generally on CMSAAC's recommendations,<sup>20</sup> including the technical standards, protocols, procedures, and other requirements to facilitate the transmission of emergency alerts by CMS providers. 3G Americas supports the CMSAAC recommendations as the most efficient technology and process for CMAS. Of particular importance, the CMSAAC recommendations support innovation over time.

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<sup>20</sup> *NPRM* at ¶ 6.

The Commission also specifically seeks comments on CMSAAC's recommendations on geo-targeting.<sup>21</sup> The Advisory Committee recommended that in order to expedite initial deployments of CMAS, an alert that is specified by a geocode, circle or polygon be transmitted to an area not larger than the CMSP's approximation of coverage for the county or counties with which that geocode, circle or polygon intersects.<sup>22</sup> In areas with multi-county cell sites or paging systems where the RF propagation exceeds a single county's borders, the Advisory Committee recommended that CMSPs support geo-targeting subject to the limitations of their technology.<sup>23</sup> CMSAAC additionally recommended that the physical location of cell sites and paging transceivers within the alert area may be used to determine the initial predefined alert areas.<sup>24</sup>

Further, the CMSAAC recommended that certain urban areas with populations exceeding 1,000,000 inhabitants or with other specialized alerting needs be identified for priority consideration regarding implementation of more precise geo-targeting, no later than August 2008.<sup>25</sup> The CMSAAC additionally recommended "that the FCC assess the progress of the CMSP geo-targeting as part of the biennial review process."<sup>26</sup>

3G Americas urges the Commission to adopt CMSAAC's recommendations on geo-targeting. 3G Americas agrees with the CMSAAC that continued collaboration

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<sup>21</sup> *Id.* at ¶ 21.

<sup>22</sup> *The Commercial Mobile Alert System*, Notice of Proposed Rulemaking Appendix B: CMSAAC Commercial Mobile Alert Service Architecture and Requirements, PS Docket No. 07-287, at 55-56 (rel. Dec. 14, 2007) ("CMSAAC Recommendations").

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

between industry and the government is critical and that they should periodically meet to discuss evolving geo-targeting technologies. The public interest will best be served by encouraging industry to innovate, rather than to lock it into the first generation of geo-targeting technology. 3G Americas cautions against mandating sub-county geo-targeting precision now or at an arbitrary future date, since it is entirely unknowable at this time whether the industry would be able to meet any such targeted date. To avoid past incidences where unreachable technology milestones were mandated for CMSPs, the Commission should avoid technology mandates that the CMSAAC has not recommended,<sup>27</sup> and instead establish a regular review mechanism to study progress in this area.

Further, the Commission should adopt the Advisory Committee's recommendation to provide carriers with the flexibility to provide alerts with increased geo-targeting precision where feasible. Mandating sub-county targeting could have the inadvertent effect of discouraging otherwise willing CMS providers that are not capable of providing such technology from offering emergency alerts to their subscribers. In addition, the Commission will be able to assess geo-targeting progress both through its own regulatory processes and through its involvement in the R&D program to be

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<sup>27</sup> The Commission should be guided by earlier congressional direction given it in the context of hearing-aid-compatibility technology development, and similarly avoid a technology mandate in this instance. Section E of the Hearing Aid Compatibility Act reads in part: "Costs and benefits; encouragement of use of currently available technology. In any rulemaking to implement the provisions of this section, the Commission shall . . . ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology." 47 U.S.C. § 610(e). Congress clearly understood that mandating a particular technology at the time of passage of the Act could prevent future innovation in technology designed to deliver public goods to telecom consumers.

established with the Department of Homeland Security and the National Institute for Standards and Technology (“NIST”).

The Commission should not modify any of the carefully studied and crafted CMSAAC recommendations. Rather, the Commission should encourage voluntary CMAS participation and innovation by promulgating rules that follow the CMSAAC recommendations. These recommendations arose from careful study and robust discussion. Altering one or more of the recommendations could undermine the complex compromise and delicate balance that was reached through more than a year of study and negotiation between industry and government representatives and, thus, undermine carriers’ participation in and the efficacy of the CMAS.

#### **IV. THE WARN ACT PROVIDES FOR RESEARCH AND DEVELOPMENT OF GEO-TARGETING TECHNOLOGIES**

Section 604 of the WARN Act provides that the Under Secretary of Homeland Security, in consultation with the Chairman of the Commission and the Director of NIST, shall establish a research, development, testing, and evaluation program based on the CMSAAC recommendations, to support the development of technologies to increase the number of wireless devices that can receive alerts.<sup>28</sup> Among the functions of this research and development program are “developing innovative technologies that will transmit geographically targeted emergency alerts to the public.”<sup>29</sup> When enacting WARN, Congress was aware, based on testimony at legislative hearings on the Act, that

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<sup>28</sup> See WARN Act 120 Stat. 1940 § 604(a).

<sup>29</sup> *Id.* 120 Stat. 1940 § 604(b)(2)(A).

geo-targeting technologies were not yet available.<sup>30</sup> Therefore, Congress directed DHS, in consultation with the Commission and NIST, to create a program to fund the development of more precise geo-targeting technologies.<sup>31</sup>

The Advisory Committee recommended that “the FCC encourage DHS/FEMA, in concert with CMSPs, to immediately initiate the research, development, testing, and evaluation program referenced in Section 604 of the WARN Act.”<sup>32</sup> The CMSAAC further recommended “that CMSPs work with this DHS program to evaluate the feasibility and implementation issues associated with proposed solutions to increase geographic targeting specificity.”<sup>33</sup> 3G Americas agrees with these recommendations, and urges DHS, NIST, and the Commission to immediately initiate this program, in concert with CMSPs and vendors, to improve geo-targeting precision.

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<sup>30</sup> See EAS Hearing (statement of Chris Guttman-McCabe, Vic President, Regulatory Affairs, CTIA-The Wireless Association®) (“there is nothing initiated in the network for delivering messages to a specific targeted geographic area. Handsets and/or networks would have to be upgraded or replaced in order to provide such a service and development and deployment of any geographic service would take time.”).

<sup>31</sup> WARN Act 120 Stat. 1940 § 604(b)(2)(A).

<sup>32</sup> CMSAAC Recommendations at 56.

<sup>33</sup> *Id.*

## CONCLUSION

3G Americas fully supports the recommendations of the CMSAAC. Congress directed the Commission to convene the CMSAAC so that both industry and the public safety community could deliberate on the feasibility of various proposed technical requirements and processes. To disregard the recommendations of a comprehensive advisory committee and consider new, possibly proprietary solutions outside of the CMSAAC process, would be inconsistent with both the direction of Congress in WARN and with the public interest. Moreover, the recommendations of an industry-wide committee are more likely to result in technical standards that are deployable across a larger number of networks and devices. In addition, the open, inclusive process established in WARN will better expedite scalable technical solutions, resulting in more Americans receiving more alerts on their mobile devices sooner. For these reasons, 3G Americas urges the Commission to adopt the CMSAAC recommendations as issued, particularly those relating to geo-targeting.

Respectfully submitted,



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February 4, 2008

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