

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of )  
 )  
The Commercial Mobile Alert System ) PS Docket No. 07-287  
 )  
 )

To: The Commission, *en banc*

**REPLY COMMENTS OF  
AMERICAN ASSOCIATION OF PAGING CARRIERS**

The American Association of Paging Carriers (AAPC), by its Task Force on Emergency Communications, respectfully submits its reply to the Federal Communications Commission to various comments filed in response to its Notice of Proposed Rulemaking (NPRM) in the captioned proceeding, FCC 07-214, released December 14, 2007 and published at 73 Fed. Reg. 545 (January 3, 2008). As its reply to the comments on the NPRM, AAPC respectfully states:

In this proceeding the Commission seeks public comment on a variety of issues concerning the report and recommendations of the Commercial Mobile Service Alert Advisory Committee (CMSAAC) dated October 12, 2007.<sup>1</sup> The Report and this rulemaking, in turn, are mandated by Sections 602 and 603 of the WARN Act passed in 2006,<sup>2</sup> and will lay the foundation for a nationwide Commercial Mobile Alert System (CMAS), in which emergency alerts will be transmitted to the public by those Commercial Mobile Radio Service providers (as defined in

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<sup>1</sup> Commercial Mobile Alert Service Architecture and Requirements, October 12, 2007 (the "Report"), annexed as Appendix B to the NPRM.

<sup>2</sup> Warning, Alert, and Response Network (WARN) Act, Pub. L. No. 109-347, §§601-613, 120 Stat. 1936-1943 (2006).

Section 332(d)(1) of the Communications Act, 47 U.S.C. §332(d)(1),<sup>3</sup> and implementing Commission regulations)<sup>4</sup> electing to participate in the service.

AAPC's initial comments, along with the overwhelming majority of those filed by other parties, strongly endorsed the conclusions and recommendations in the Report and urged their prompt adoption by the Commission. The CMSAAC labored long and carefully to fulfill its mandate, and it would be highly inappropriate and counterproductive to the objectives of the WARN Act for the Commission to either second-guess the CMSAAC in any material way, or to attempt to reinvent the Report produced by the CMSAAC. The Commission should do neither.

Nonetheless, AAPC believes it is appropriate to respond to those comments arguing for geo-targeting requirements beyond the recommendations of the CMSAAC. In this regard, the CMSAAC recommended that due to current capabilities, "an alert that is specified by a geocode, circle or polygon . . . will be transmitted to an area not larger than the [CMRS provider's] approximation of coverage for the county or counties with which that geocode, circle or polygon intersects" (*see* NPRM at ¶21), and stated that technical limitations currently preclude dynamic geo-targeting at a level more granular than the county. (*Id.*)

An implicit or explicit theme of some of the commenting parties is that geo-targeting below the county level should be a requirement for participating in CMAS.<sup>5</sup> AAPC emphatically disagrees and urges the Commission to firmly reject any such requirement.

The issue here is *not* whether an alert initiator should be able to target small areas where they want an alert to be sent. There are doubtless many valid reasons why an alert initiator

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<sup>3</sup> Although the WARN Act uses the term "commercial mobile service," it expressly equates that term with "commercial mobile radio service" as defined in 47 U.S.C. §332(d)(1). *See* WARN Act at §602(b)(1)(A).

<sup>4</sup> 47 C.F.R. §20.9.

<sup>5</sup> *See, e.g.*, comments of Alert Systems, Inc., pp. 17-18; CellCast Technologies, LLC, pp. 37-41; California Public Utilities Commission, pp. 13-16; DataFM, Inc., p. 16; National Emergency Number Association, p. 2; Purple Tree Technologies, p. 11; Westchester County, New York, p. 1.

should be able to do so. Rather, the issue is whether targeted alerts must be confined *exclusively* to the target area, and whether carriers that are unable readily to so limit the geographic scope of alerts should be *excluded* from participating in CMAS. The answer to both of those questions should be no.

One of the fundamental purposes of the WARN Act was to foster the *voluntary* participation in a CMAS by CMRS providers. It would truly be a perversion of that fundamental Congressional purpose for the Commission to now erect artificial *barriers* for carriers otherwise willing and desiring to participate in CMAS. Requiring more granular geo-targeting than recommended by CMSAAC would be just such an artificial barrier, due to technical limitations of existing CMRS networks. Thus, the perverse effect of requiring more granular geo-targeting would be to deny altogether, or drastically postpone, CMAS for millions of existing CMRS customers just because their carriers are not equipped for precise geo-targeting!

Moreover, as pointed out in AAPC's initial comments (pp. 5-7), confining alerts to a small target area is a bad idea in any event and would dis-serve the legitimate interests of paging customers. There are three principal purposes behind precise geo-targeting: (1) to assist persons in the affected area to take protective action, either by leaving the area altogether or taking appropriate shelter; (2) facilitating access to the emergency site by emergency personnel; and (3) inhibiting entry to the site by persons who were not in the emergency area at the outset of the incident spawning the alert.

Paging service subscribers are inherently moving in unpredictable directions, often at high rates of speed. Accordingly, even though they may not be in a target area at the time an alert is distributed, they still need to be alerted to the emergency situation if for no other reason than to prevent them from unwittingly entering the emergency area. Moreover, first responders

are substantial users of paging service and have a legitimate need to know about emergency situations in and near their jurisdictions. Accordingly, at least in the case of paging service, it is patently fallacious to argue that alerts should be confined *exclusively* to a small geographic area containing the emergency condition, and should not be distributed more broadly by a participating carrier.

AAPC also points out that a paging service customer receiving an alert that is irrelevant to that customer can disregard the alert with few if any serious consequences. On the other hand, if a customer does *not* receive an alert of interest to it simply because that customer is outside of the targeted area at the time the alert is distributed, the customer may have no recourse and the consequences of not receiving the alert could be severe.

The CMSAAC struck the right balance in its Report, and its geo-targeting recommendations should be adopted without change by the Commission.

Respectfully submitted,

s/Vic Jensen

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