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

In the Matter of	)	
	)	
First Alert System Text Corporation Petition for Rulemaking	)	RM-11525
	)	
	)	
	)	

OPPOSITION OF CTIA – THE WIRELESS ASSOCIATION®

Michael F. Altschul
Senior Vice President, General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Brian M. Josef
Director, Regulatory Affairs

CTIA–THE WIRELESS ASSOCIATION®
1400 16th Street, NW, Suite 600
Washington, DC 20036
(202) 785-0081

April 29, 2009

TABLE OF CONTENTS

Page

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

In the Matter of	)	
	)	
First Alert System Text Corporation	)	RM-11525
Petition for Rulemaking	)	
	)	
	)	

OPPOSITION OF CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association ("CTIA")[1] respectfully submits this opposition to the Petition filed by First Alert System Text Corporation ("FAST") proposing the automatic inclusion of its Short Message Service ("SMS")-based emergency alerting system in all Lifeline-associated service plans.[2] As the Commission itself has recognized "SMS may not be a desirable solution for the widespread dissemination of alerts to the public because the mass delivery of SMS-formatted alerts could degrade network performance and delay alert delivery."[3] CTIA strongly opposes FAST's Petition and urges the Commission to not undermine the comprehensive commercial mobile alert system currently being developed pursuant to the Warning, Alert and Response Network ("WARN") Act by imposing a technology platform that has been considered and rejected.

---

1 CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including 700 MHz, cellular, Advanced Wireless Service, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

2 Letter from Robert Craddock, CEO, First Alert System Text Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-109 (filed March 5, 2009) ("FAST Petition").

3 *Id.* at ¶ 35.

I. INTRODUCTION AND SUMMARY

In its Petition, FAST proposes that the Commission mandate the inclusion of its alerting service to all Lifeline program recipients.[4] This service is neither new nor novel. It has been considered – and rejected – by a broad group of representatives on the Commercial Mobile Service Alert Advisory Committee ("CMSAAC"). Specifically, carriers would provide FAST with a listing of all Lifeline-associated cell phone numbers, and FAST would receive five cents per month per active Lifeline-associated number from the Universal Service Fund in order to support its system.[5]

CTIA strongly opposes FAST's Petition. The proposal advanced by FAST ignores a multi-year effort by the CMSAAC, the Commission, and other government agencies to establish and implement a comprehensive wireless mobile alerting system for American consumers. This omission does not appear to be inadvertent, as FAST itself participated in the FCC rulemaking concerning the development of a wireless emergency alert system.[6] The CMSAAC concluded that point-to-point technologies such as SMS are not feasible or desirable for transmitting wireless alerts, and the Commission has recognized SMS' shortcomings as an emergency alert tool as well.[7] The efforts to implement a Commercial Mobile Alert System ("CMAS") are well underway, and the Commission must not allow FAST to circumvent that process. Further, FAST's proposal asks the Commission to violate its longstanding principle of technological neutrality by requiring the use of a delivery method found by the Commission and the CMSAAC

---

4 *Id.* at 1.

5 *Id.* at 3.

6 First Alert System Text (FAST) Fact Sheet, PS Docket No. 07-287 (filed Apr. 9, 2008).

7 *The Commercial Mobile Alert System*, Notice of Proposed Rulemaking, 22 FCC Rcd 21975 (2007) ("CMAS NPRM") at Appendix B: Commercial Mobile Alert Service Architecture and Requirements (Oct. 12, 2007) at § 5.2 ("CMSAAC Report").

to be inferior to point-to-multipoint technologies for the delivery of wireless emergency alerts. In doing so, FAST would provide the Lifeline fund's intended beneficiaries with an inferior alerting service, an outcome that is clearly not in the public interest.

II. A GRANT OF FAST'S PETITION WOULD UNDERMINE THE PREVIOUS EFFORTS BY THE COMMISSION AND STAKEHOLDERS TO DEVELOP A COMPREHENSIVE COMMERCIAL MOBILE ALERT SYSTEM UNDER THE WARN ACT.

A. The FCC and the Wireless Industry Have Made Substantial Progress In Implementing the WARN Act.

The WARN Act, enacted on October 13, 2006, established a process for Commercial Mobile Service ("CMS") providers to voluntarily elect to transmit emergency alerts to the public.[8] The WARN Act balances carriers' existing capabilities with the requirements of an effective emergency alert service. To implement the WARN Act, the Commission formed the CMSAAC, composed of a broad group of stakeholders,[9] which submitted its recommendations to the Commission after nearly a year of discussion.[10]

The CMSAAC's report addressed and provided recommendations on each deliverable requested by the FCC and specified in the WARN Act. In particular, the CMSAAC concluded that point-to-point technologies, such as SMS, are not feasible, practical, or desirable for transmitting emergency alerts in the wireless network and enumerated several reasons why the CMAS should not adopt such technologies.[11] The CMSAAC instead concluded that point-to-

---

[8] Security and Accountability For Every Port Act of 2006 (SAFE Port Act), Pub. L. 109-347, Title VI-Commercial Mobile Service Alerts (2006) ("WARN Act").

[9] The CMSAAC was comprised of more than 40 individuals representing federal, state, local, and tribal government; public safety, communications providers; vendors; broadcasters; consumers' groups; and technical experts, among others.

[10] CMAS NPRM at ¶ 5.

[11] CMSAAC Report § 5.2.

multipoint technologies limited to 90 characters of text were the most practical for transmitting alerts, taking into account carrier networks, traffic management and latency, and handset capabilities and requirements, among other things.[12]

In April 2008, the Commission generally adopted the CMSAAC's recommendations in its First Report and Order regarding commercial mobile alerts.[13] Among the proposals adopted by the Commission was the CMSAAC's recommended end-to-end architecture proposal.[14] In its First Report and Order, the Commission also recognized the shortcomings of point-to-point text alerts, noting that "SMS may not be a desirable solution for the widespread dissemination of alerts to the public because the mass delivery of SMS-formatted alerts could degrade network performance and delay alert delivery."[15] The Commission also adopted technical requirements for CMAS elements controlled by CMS providers and adopted rules requiring participating CMS providers to transmit three classes of emergency alerts: presidential, imminent threats, and AMBER alerts.[16] Further, the Commission agreed with the CMSAAC that a federal government entity should perform the alert aggregator and alert gateway functions.[17] The Federal

---

[12] *See, e.g., Id.* at § 1.1.1 (recommending that the Alert Gateway "formulate a 90 character alert based on key fields in the CAP alert sent by the alert initiator"); *Id.* at § 5.2 (listing the shortcomings of point-to-point technologies).

[13] *The Commercial Mobile Alert System*, First Report and Order, 23 FCC Rcd 6144, at ¶ 7 (2008) ("*CMAS Order*").

[14] *Id.* at ¶ 13 (We adopt the CMSAAC's proposed architecture for the CMAS. We find that the recommended model will facilitate an effective and efficient means to transmit alerts and find that the public interest will be served as such.").

[15] *Id.* at ¶ 35.

[16] *Id.* at ¶¶ 26-32.

[17] *Id.* at ¶ 15 ("We agree with the CMSAAC and the majority of commenters that a Federally administered aggregator/gateway is a necessary element of a functioning CMAS. While no Federal agency has yet been identified to assume these two functions, we believe that a Federal government aggregator/gateway would offer the CMS providers the best possibility for

Emergency Management Agency ("FEMA") has since announced that it will perform these functions.[18]

Since adoption by the Commission of CMAS rules, the wireless industry has endeavored to adopt standards and procedures through its industry standards bodies to implement the CMAS. The Wireless Technologies and Systems Committee of the Alliance for Telecommunications Industry Solutions ("ATIS"), along with the Telecommunications Industry Association ("TIA"), has continued the efforts first initiated through the CMSAAC process.[19] As the Commission was informed by a recent *ex parte* filing, ATIS's efforts have continued especially concerning the development of the joint ATIS/TIA "C Interface" and "Mobile Device Behavior" specifications, as well as the ATIS specification covering GSM/UMTS Cell Broadcast Service."[20] Much of the standardization process now has been completed[21] and substantive rollout of the CMAS is solely limited by the development of the "C Interface" by FEMA and the Department of Homeland Security. CTIA believes that carriers are expeditiously working to implement the WARN Act as expected. As such, FAST's eleventh hour request only seeks to undermine the tremendous effort by Congress, the FCC, Public Safety and the wireless industry to develop and deploy a national CMAS for consumers.

---

the secure, accurate and manageable source of CMAS alerts that the WARN Act contemplates.").

[18] News Release, FEMA to Assume Aggregator/Gateway Role for Nationwide Cell Phone Alert System (May 30, 2008), *available at* http://www.fema.gov/news/newsrelease.fema?id=43619.

[19] *See* http://www.atis.org/0160/index.asp.

[20] Letter from Deirdre Y. Cheek, Attorney, ATIS, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 07-287 (filed Oct. 23, 2008) ("ATIS Ex Parte Letter").

[21] *Id.* at 3-8 (displaying project schedules for Joint ATIS/TIA "C-Interface" Specification and Mobile Device Behavior Specification, as well as the ATIS WTSC (G3GSN) Deliverable).

B. FAST's Proposal Attempts to Circumvent a WARN Act Process That Is Well Underway.

The substantial progress to date in the development of the CMAS has been completely disregarded by FAST, which attempts to circumvent the WARN Act implementation process and ignores the WARN Act's goals. FAST's Petition makes no mention of how its National Emergency Alert Notification System would comply with the Commission's rules governing a comprehensive wireless emergency alerting and notification system. Indeed, its proposal entirely disregards the CMAS architecture and "Trust Model" to receive, aggregate, and authenticate alerts originated by authorized alert initiators using the Common Alerting Protocol. FAST's Petition, in contrast to the CMSAAC's thorough report, lacks specifics and reads more like a marketing brochure.

FAST's Petition also runs afoul of the WARN Act's requirements and stated goals. It appears that FAST will not allow customers to opt out of its service despite the WARN Act's provisions that allow consumers to opt out of receiving all but Presidential alerts.[22] Unlike FAST's proposed service, CMAS will not distinguish between Lifeline and non-Lifeline consumers – both classes of consumers may receive the same reliable emergency alerts. FAST's proposal does not address these two consumer groups similarly: Lifeline consumers would receive a technologically inferior service with FAST and would not be able to opt-out of this

[22] WARN Act at § 602(b)(2)(E) ("Any commercial mobile service licensee electing to transmit emergency alerts may offer subscribers the capability of preventing the subscriber's device from receiving such alerts, or classes of such alerts, other than an alert issued by the President."). Both the CMSAAC and the Commission contemplated that the CMAS ultimately adopted would allow customers to opt out of receiving emergency alerts. *See* CMSAAC Report at § 5.5.3 ("The CMSAAC recommends that CMSPs shall offer their subscribers a simple opt-out process that is based on the classification of imminent threat and AMBER Alerts."); 47 C.F.R. § 10.500 ("CMAS mobile device functionality is dependent on the capabilities of a Participating CMS Provider's delivery technologies. Mobile devices are required to perform the following functions: . . . [p]resentation of alert content to the device, consistent with subscriber opt-out selections.").

service. Further, FAST's geographic targeting method is inefficient and likely ineffective. The FAST proposal is deficient because it makes use of static, pre-determined ZIP codes for targeting alerts and the alerts transmitted will not reach users who have not signed up in advance to receive a ZIP code's alerts.[23] Indeed, FAST does not address how a subscriber traveling out of a pre-defined ZIP code would receive an alert of an emergency in the area of the subscriber's current location. Congress recognized the importance of geo-targeting in the WARN Act, where it directed the creation of a research program for "developing innovative technologies that will transmit geographically targeted emergency alerts to the public."[24] In contrast, the comprehensive approach recommended by the CMSAAC and adopted by the Commission allows for consumers to opt out of receiving all but Presidential alerts[25] and provides for effective geo-targeting capabilities for the alerting service.[26] FAST's proposed service clearly falls short of the WARN Act's goals with respect to consumer opt-in and geo-targeting requirements. As FAST's Petition disregards both the WARN Act and the significant effort made in implementing it, the Commission must reject it as defective and continue to allow the ongoing CMAS process to complete its comprehensive wireless emergency alert system.

---

23 FAST Petition at 4 ("Inherent to the *FAST* system will be the ability to target delivery of these alerts to specific zip codes, and for the individual cell phone user to specify those zip codes for which he/she would like to receive such alerts. By default, the billing zip code of the cell phone number would automatically be set up. An individual will be able to change their profile (i.e. add zip codes) through the FAST website www.firstalerttext.com or directly via their cell phone.").

24 WARN Act at § 604.

25 *See* CMSAAC Report at § 5.5.3.

26 *Id.* at § 5.4 ("In order to expedite initial deployments of CMAS an alert that is specified by a geocode, circle or polygon . . . will 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.").

III. FAST'S PETITION ASKS THE COMMISSION TO MANDATE A TECHNOLOGY-SPECIFIC SOLUTION THAT HAS BEEN CONSIDERED AND REJECTED FOR DELIVERY OF WIRELESS EMERGENCY ALERTS.

The Commission has repeatedly stated, including in the CMAS proceeding, that it remains technology neutral and will not mandate carrier support of a specific technology. Specifically, the Commission stated that "we believe that CMS providers and equipment manufacturers are in the best position to select and incorporate the technologies that will enable them to most effectively and efficiently deliver mobile alerts."[27] FAST's Petition contravenes this important Commission policy, as it asks the Commission to mandate the use of a specific technology – SMS – for the delivery of emergency alerts to Lifeline-associated phones.[28]

While the Commission maintained its policy of technology neutrality in the First Report and Order, it also noted the CMSAAC's numerous concerns regarding point-to-point technologies.[29] Indeed, the CMSAAC carefully considered SMS (the technology advanced by FAST) for the delivery of wireless emergency alerts, but ultimately rejected SMS technologies on the basis that they were not well-suited for mass alerting.[30]

The CMSAAC enumerated several reasons why point-to-point technologies were inappropriate for the support of CMAS, and FAST's proposal does not overcome nor attempt to even address any of these legitimate concerns. Specifically, the CMSAAC found that point-to-

---

[27] *CMAS Order* at ¶ 33. The Commission's conclusion is consistent with Office of Management and Budget ("OMB") Circular A-119 (Feb. 10, 1998), which directs federal agencies to favor voluntary standards where such standards exist, rather than prescribing a specific, government-directed standard. *See* OMB Circular A-119, available at http://www.whitehouse.gov/omb/circulars/a119/a119.html.

[28] FAST Petition at 3 ("All that will be needed by FAST for immediate implementation is a simple listing of all LIFELINE-associated cell phone numbers from each cell phone carrier so the service can automatically be added to those numbers.").

[29] *CMAS Order* at ¶ 35.

[30] *Id.*; CMSAAC Report at § 5.2.

point technologies can experience significant delivery delays, result in network and radio interference to the point of blocking voice calls, lack security and can be easily spoofed, lack geo-targeting capabilities, lack support of roamers, and lack emergency alert-specific tones, making emergency alerts indistinguishable from normal SMS messages.[31] Several of these inherent limitations of SMS would be exacerbated by FAST's proposed system: customers could mistake FAST's alerts for spam or non-emergency messages, and are more likely to do so if the service delivering the messages was one to which they did not consciously opt-in.

In sum, the Commission has reached a prior conclusion in the CMAS proceeding that particular technologies should not be mandated for wireless mobile alerting; rather, CMS providers are best positioned to reach this determination. FAST asks that this conclusion be reconsidered without any basis – a result clearly not in the public interest. Moreover, FAST's proposal seeks the implementation of an inferior technological solution that has many significant shortcomings previously identified and discussed by the Commission. FAST has failed to make any substantial showing to overcome the prior conclusions of the CMSAAC and Commission. CTIA strongly urges the Commission to again reaffirm its prior conclusions by dismissing the FAST petition.

IV. CONCLUSION

The development of a comprehensive CMAS is well underway, and the Commission should not permit FAST to undermine this process by mandating an inferior technology for low-income consumers from which they may not opt out. CTIA strongly urges the Commission to

[31] CMSAAC Report at § 5.2.

reject the FAST Petition and to continue the implementation of a CMAS that will achieve the WARN Act's objectives and effectively serve all consumers.

Respectfully submitted,

By: */s/ Brian M. Josef*

CTIA – The Wireless Association®
1400 16th Street, NW, Suite 600
Washington, D.C. 20036
(202) 785-0081

Brian M. Josef
Director, Regulatory Affairs

Michael Altschul
Senior Vice President and General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Its Attorneys

Dated: April 29, 2009

CERTIFICATE OF SERVICE

I, Shanee Meeks, do hereby certify that on this 29th day of April 2009, I caused copies of the foregoing "Opposition of CTIA – The Wireless Association® to Petition for Rulemaking" to be delivered to the following via First Class U.S. mail:

Robert Craddock
First Alert System Text Corporation
4639 Clyde Morris Blvd.
Suite #106
Port Orange, FL 32129
Via First- Class Mail

/s/ Shanee Meeks