



Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW | Washington, DC 20037-1122 | tel 202.663.8000 | fax 202.663.8007

Richard R. Zaragoza  
tel 202.663.8266  
richard.zaragoza@pillsburylaw.com

September 8, 2014

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Written *Ex Parte* Communication**  
**EB Docket No. 04-296**

Dear Ms. Dortch:

This letter is being filed in the above-referenced proceeding on behalf of the fifty (50) State Broadcasters Associations named at the end of this letter (collectively, the “Named State Associations” or these “Associations”). The Named State Associations are filing this letter to strongly support the comments and reply comments of the National Association of Broadcasters (“NAB”) in this proceeding and to provide the Commission with additional information based upon the Associations’ experience regarding nationwide testing of the Emergency Alert System (“EAS”).

As an initial matter, the State Associations agree with the NAB<sup>1</sup> and other commenters that designation of “000000” as the National EAS Location Code is a practical move and should be adopted as the national code.

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<sup>1</sup> Comments of the National Association of Broadcasters, EB Docket No. 04-296, at 4 (filed August 14, 2014) (“NAB Comments”).

Regarding the National Periodic Test Code (“NPT”), the Associations also agree with the NAB’s observation that “use of the NPT, as currently configured, is the only reasonable way to accommodate another nationwide EAS test in the next 12-15 months.”<sup>2</sup> The Associations believe that use of the NPT as the national test code would accelerate the abilities of the Federal Emergency Management Agency (“FEMA”) and the FCC to plan for another national test, and would obviate the need for an extensive and expensive consumer outreach effort in advance of the test. The overarching purpose of a national EAS test is to ensure that all EAS Participants can reliably receive and relay a message emanating from FEMA. The first national EAS test did exactly what it was intended to do – unveil any weaknesses in the relay system. The ability of EAS equipment to carry an Emergency Action Notification (“EAN”), which exceeds the normal two-minute limitation of all other EAS codes, can be examined in a test bed, as the NPRM and the NAB suggest,<sup>3</sup> instead of being used for the next national EAS test.

As the NAB also points out, “Implementing a reconfigured NPT that mimics the behavior of an EAN will require a substantial level of technical and operational coordination between FEMA, the Commission, equipment manufacturers and EAS participants...”<sup>4</sup> The State Associations agree, and submit that a reconfiguration of the NPT is simply too complex at this time, and that any benefits associated with implementing an NPT emulating EAN are outweighed by these complexities. Should the Commission nevertheless decide to move forward in implementing a reconfigured NPT, it should adopt the NAB’s suggestion that such an effort will require at least three years.<sup>5</sup> The Associations also submit that the NPT should not emulate EAN as to priority and duration, nor should the NPT test override actual state, regional or local EAS alerts.

The State Associations also join the NAB in requesting clarification regarding the logging requirements for Integrated Public Alert and Warning System (“IPAWS”) testing.<sup>6</sup> To date, the FCC’s guidance on IPAWS logging requirements has been informal. Surely the Commission wants all EAS Participants to be fully and accurately aware of their obligations. Furthermore, principles of fundamental fairness suggest that if an EAS Participant is held responsible for compliance with the FCC’s

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<sup>2</sup> Reply Comments of NAB, EB Docket No. 04-296, at 1-2 (filed August 29, 2014) (citation omitted) (“NAB Reply Comments”).

<sup>3</sup> Review of the Emergency Alert System, 79 Fed. Reg. 41159, ¶ 14 (July 15, 2014); NAB Reply Comments at 2.

<sup>4</sup> NAB Reply Comments at 2.

<sup>5</sup> *Id.* at 3, n.7 (citation omitted).

<sup>6</sup> NAB Comments at 6, n.12.

logging obligations, those obligations must be in writing, clear and officially published. As the NAB points out, “the EAS rules are currently silent on whether the weekly tests conducted by the FEMA IPAWS Program Office may constitute ‘required weekly tests,’ and if so, whether stations must log them” and that it is “unclear whether the weekly IPAWS-originated tests are considered to be “special tests,” and if so, whether they may take the place of an EAS participant-originated Required Weekly Test” under the Commission rules.<sup>7</sup> The State Associations agree with the NAB’s sentiments, and, as a result, respectfully request clarification in this area.

Regarding the EAS Test Reporting System (“ETRS”), the State Associations are generally in favor of the electronic filing of post-nationwide testing reports for any future national EAS tests. However, the Associations propose that the Commission make a few minor changes to the ETRS prior to requiring every EAS Participant to submit nationwide EAS test result data electronically. First, going forward, the FCC should provide filers with an electronic “filing receipt” whenever any ETRS Form 1 information is changed or updated as well as once Forms 2 and 3 are filed, so that EAS Participants will be able to confirm that their ETRS submissions have been duly received by the Commission.

Second, the Commission should consider revising its ETRS Forms. For the last nationwide test, ETRS Form 1 required general information about the filer; Form 2 required EAS Participants to indicate whether the Participant was able to forward the EAS message as required; and Form 3 asked Participants to provide an explanation regarding any problems the Participant had experienced in distributing the EAS message. To ease the filing burden on EAS Participants, the FCC should consider pre-populating as much Form 1 data as possible since the Commission already has access to much of the information required by the Form. The Commission should also consider combining Forms 2 and 3 so that Participants are only required to log in and report test results once and not twice. The State Associations also agree that the ETRS and the Forms should be modified in such a way as to allow Participants “to submit consolidated (“batch”) reports” as requested by NAB.<sup>8</sup> This would obviate the time-consuming need for Participants to complete and file separate reporting forms on a station-by-station basis, should they elect to do so.

The last point the State Associations would like to make regarding ETRS is that the Commission should provide a streamlined waiver option for those few EAS

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<sup>7</sup> *Id.*

<sup>8</sup> NAB Reply Comments at 4.

participants who may need to file their test results on paper. As the Commission is aware, Internet access is spotty at best in some rural areas of the nation. Indeed, for example, there are a number of radio stations in Maine that have no Internet access at all. While online filing is preferable, there may be situations where participants *can only* provide the Commission with a paper submission. The State Associations anticipate that such EAS Participants are few in number, and therefore the Associations submit that it will not be much of a burden on FCC staff to include the data submitted in paper as part of its overall national EAS test information gathering process.

In connection with the accessibility of EAS text crawls, and as has always been the case, the State Associations strongly support improving the delivery of EAS alerts to those with disabilities. However, the State Associations also agree with the NAB that the Commission's efforts to enhance the accessibility of EAS messages for persons with disabilities will not be effective as long as the FCC continues to allow cable operators to "force-tune" all viewers to another channel.<sup>9</sup> As the State Associations themselves have long argued, such "cable overrides" not only disrupt a television station's programming, they also disrupt the EAS alerts that scroll beneath a television station's programming. Accordingly, the Commission should grant all television stations the right of "selective override," thereby allowing such stations to opt out of a cable system's EAS override.<sup>10</sup> The State Associations submit that it makes little sense to require television stations to maintain certain speed, completeness, and placement of EAS crawls when such crawls can be overridden by cable systems.<sup>11</sup>

Based on the foregoing, the Named State Broadcasters Associations respectfully urge the Commission to resolve this proceeding consistent with the positions set forth herein.

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<sup>9</sup> NAB Comments at 9-10.

<sup>10</sup> See, e.g., Joint Reply Comments of the Named State Broadcasters Associations, EB Docket No. 04-296, at 8-9 (filed June 14, 2010) ("the cable override problem prejudices in particular the very class of viewers that the Congress and the FCC have specifically sought to protect"); Joint Reply Comments of the Named State Broadcasters Associations, EB Docket No. 04-296, at 17 (filed April 21, 2006) (describing the NAB president's testimony that "there is no reason that cable viewers should be blocked from getting the critical point by point emergency information they need because cable switches away from detailed emergency coverage by local broadcasters"); Joint Comments of the Named State Broadcasters Associations, EB Docket No. 04-296, at 12 (filed January 24, 2006) (Any action "must take into account and avoid repeating the 'cable override problem'").

<sup>11</sup> The State Associations also support the NAB's proposal to form a public-private group to "develop recommendations for best practices that serve the interests of all the relevant stakeholders." NAB Reply Comments at 4.



Oklahoma Association of Broadcasters  
Oregon Association of Broadcasters  
Pennsylvania Association of Broadcasters  
Radio Broadcasters Association of Puerto Rico  
Rhode Island Broadcasters Association  
South Carolina Broadcasters Association  
South Dakota Broadcasters Association  
Tennessee Association of Broadcasters  
Texas Association of Broadcasters  
Utah Broadcasters Association  
Vermont Association of Broadcasters  
Virginia Association of Broadcasters  
Washington State Association of Broadcasters  
West Virginia Broadcasters Association  
Wisconsin Broadcasters Association  
Wyoming Association of Broadcasters