

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

In the Matter of)	
)	
Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System)	PS Docket No. 15-94
)	
Wireless Emergency Alerts)	PS Docket No. 15-91

**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)¹ respectfully submits these comments to support certain positions and proposals described in the record on the above-captioned Further Notice regarding the emergency alert system (EAS).² Specifically, we continue to believe that the burdens of mandating the persistent display of EAS messages would outweigh the benefits, given the relevant technical challenges and the risk of disrupting broadcasters' news coverage of emergencies.³ In this vein, NAB urges the FCC to note the distinction between EAS and the optional, value-added urgent news information service that may be supported by the ATSC 3.0 television standard (i.e., Advanced

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System; Wireless Emergency Alerts*, Report and Order and Further Notice of Proposed Rulemaking, PS Docket Nos. 15-94 and 15-91 (rel. June 17, 2021) (Further Notice).

³ Further Notice at ¶¶ 51-54; Comments of NCTA – The Internet & Television Association at 5-7, PS Docket Nos. 15-94 and 15-91 (Oct. 19, 2021) (NCTA Comments); Comments of ACA Connects at 2-4, PS Docket Nos. 15-94 and 15-91 (Oct. 19, 2021) (ACA Comments); Comments of Sage Alerting Systems, Inc. at 6-8, PS Docket Nos. 15-94 and 15-91 (Oct. 19, 2021) (Sage Comments); Comments of Digital Alert Systems, Inc. at 10-15, PS Docket Nos. 15-94 and 15-91 (Oct. 19, 2021) (DAS Comments).

Emergency Information (AEA)).⁴ We also oppose changing the Emergency Action Notification (EAN) EAS event code due to technical concerns,⁵ but have no objections to changing the EAS originator code for Primary Entry Point Systems (PEP).⁶

II. PERSISTENT EAS ALERTING SHOULD NOT BE MANDATED

The record unanimously opposes FEMA's well-intentioned proposal that the EAS system be modified to enable the persistent display of alert information or notifications of emergencies that require immediate action by the public to mitigate the loss of life.⁷ Although such persistent alerts may provide more opportunity for the public to become aware of an emergency and respond accordingly, the record illustrates the technical and operational difficulties and risks of implementing FEMA's suggestion.

EAS does not have a mechanism for canceling alerts in the legacy domain, either by the alert originator or within a station's EAS equipment.⁸ Modifying the legacy EAS system to enable persistent alerts would be a multi-year, expensive process across multiple industry and government segments. And even if doing so is feasible, such a mechanism would reduce the control of alert originators over the number and rate of alert repetitions, the ability to update the alert content as a situation changes, and ending repetitions of an alert at some appointed time. Overall, persistent alerts could make the entire EAS system more

⁴ Further Notice at ¶ 54; DAS Comments at 16-18.

⁵ Further Notice at ¶ 49; DAS Comments at 6-9; Sage Comments at 2-4; ACA Comments at 4-5; NCTA Comments at 4-5.

⁶ Further Notice at ¶ 50; DAS Comments at 4-5; Sage Comments at 5; ACA Comments at 6; NCTA Comments at 7-8.

⁷ Comments of the Federal Emergency Management Agency (FEMA) Comments at 4, PS Docket Nos. 15-94 and 15-91 (May 17, 2021) (FEMA Comments).

⁸ Comments of the National Association of Broadcasters at 4, PS Docket Nos. 15-94 and 15-91 (Oct. 19, 2021) (NAB Comments); Sage Comments at 6-8.

unstable and vulnerable to unintended consequences, and lead to overlapping or conflicting alerts about the same situation.⁹

Moreover, industries would differ substantially in their ability to implement persistent EAS alerts. Radio broadcasting would not be able to signal the presence of an alert for a prolonged period of time without disrupting programming, including news coverage of the event in question.¹⁰ HD Radio may be able to provide a text-based prolonged notification of an urgent situation without disrupting programming. However, such a notification would be an optional service distinct from EAS, and Xperi explains that implementing FEMA's vision of persistent EAS alerts would require technical capabilities in the system that do not exist today.¹¹

Broadcast television may be able to support a form of persistent EAS alerting. However, as DAS describes, this approach could require a significant redesign of EAS encoder/decoder equipment and an update or even replacement of character generator/media-keyer equipment at television stations.¹² Such a process also runs the risk of blocking important on-screen about the emergency and perhaps closed captions. NAB submits that the safer course is to continue broadcasters' current practice of displaying some kind of symbol or icon in the corner of the screen or an unobtrusive crawl notifying viewers of an ongoing emergency.¹³ We believe this approach sufficiently informs viewers in

⁹ Sage Comments at 6-8.

¹⁰ DAS Comments at 12.

¹¹ Comments of Xperi Holding Corporation at 12, PS Docket Nos. 15-94 and 15-91 (Oct. 19, 2021) (Xperi Comments).

¹² DAS Comments at 12-14.

¹³ *Id.* at 14. ACA and NCTA both discuss the technical impracticalities of implementing persistent alerting on cable systems. ACA Comments at 2-4; NCTA Comments at 5-7.

most cases, and in situations cases requiring more urgency, television stations routinely interrupt programming with a live news report.¹⁴

Relatedly, NAB echoes DAS's views on whether ATSC 3.0 could potentially address persistent alerting. DAS notes that ATSC 3.0 will be a voluntarily adopted standard that may support enhanced ways of presenting emergency information to viewers.¹⁵ One such approach under consideration is called Advanced Emergency Information (AEA). However, it is important to distinguish between EAS and AEA.

The former is a regulatory requirement while the latter, if implemented, will be a voluntary option similar to an app-based urgent news information service. AEA will cover a range of urgent situations, some of which may invoke EAS and some of which may not. AEA may serve as a valuable supplement to EAS warnings, but would be a separate, value-added information service that should not be conflated with EAS or its requirements. To the extent AEA may be able to effectuate persistent alerting, NAB agrees with DAS that the FCC should refrain from regulating such an optional ATSC 3.0 content service because it is unrelated to the vital service provided by the EAS system and doing so could hinder innovation.¹⁶

We also agree with other commenters that persistent EAS alerts could disrupt the detailed, ongoing live news coverage of emergencies provided by broadcasters and other outlets.¹⁷ NAB explained that EAS is designed as a "doorbell" mechanism that is designed to push the public to seek more information from a news outlet about an emergency.

Implementing persistent EAS alerts could upset this synergy by interrupting access to

¹⁴ NAB Comments at 9.

¹⁵ DAS Comments at 16.

¹⁶ *Id.* at 18.

¹⁷ NCTA Comments at 7; DAS Comments at 11; Sage Comments at 8; NAB Comments at 9.

broadcasters' news coverage. Commenters also note that enabling persistent alerts could cause alert fatigue that moves viewers and listeners to tune out EAS alerts.¹⁸

III. NAB AGREES WITH COMMENTERS OPPOSING CHANGES TO THE EAN CODE AND SUPPORTING CHANGES TO THE PEP EVENT CODE UNDER CERTAIN CONDITIONS

The record on the Further Notice unanimously opposes FEMA's proposal to replace the EAN code with a new event code called "National Emergency Message (NEM)". NAB agrees. As ACA explains, the EAN code, which is the only live event code that EAS participants must transmit, has been "deeply embedded" in the EAS ecosystem and infrastructure since 1996 and thus would be extremely disruptive to modify.¹⁹ The EAN code is defined in a specific technical standard that differentiates it from other codes and prioritizes EAN coded events over other event codes. The EAN code is also built into every piece of EAS equipment and recognized by many devices and systems that are downstream of the Part 11 EAS equipment, many of which remain in use today.²⁰ All such legacy equipment would be rendered useless for the national alerting requirement if the code were changed. In particular, reconfiguring and testing cable system equipment to accommodate such a change would be extensive and unduly burdensome.²¹

NAB agrees with Sage and others that, if the FCC is compelled to modify the EAN code, a better approach is to simply change the text description of the code that is disseminated instead of the code itself.²² Updated systems could display the new description without affecting the ability of legacy systems to continue displaying the existing description. This would allow all EAS participants to put the alert audio on the air.

¹⁸ NCTA Comments at 3; NAB Comments at 8.

¹⁹ ACA Comments at 5.

²⁰ Sage Comments at 3.

²¹ NCTA Comments at 4-5.

²² Sage Comments at 3.

Accordingly, notwithstanding FEMA's assertion that the term EAN may be meaningless to the public,²³ the costs and burdens of modifying the underlying code itself would far outweigh any perceived benefits.

On the other hand, adopting FEMA's suggestion to change the Primary Entry Point System originator code from "PEP" to "NAT" for "National Authority" presents fewer technical problems.²⁴ Similar to the EAN event code, FEMA states that the term PEP is unfamiliar to the public, while NAT would provide more clarity as to source of an EAS alert.²⁵ Again, the simplest course may be to change the public-facing textual terminology for PEP to National authority, if the goal is to use a term more understandable by the public.²⁶ However, NAB understands that, if the FCC decides to change the originator code itself, this can be accomplished through an update to encoder/decoder software.²⁷ We agree with ACA and NCTA that, if the PEP code is modified, a sufficient transition period should be provided to allow enough time for the code to be installed in EAS equipment during a regularly scheduled software update, and then field tested before implementation.²⁸ NAB believes that a one-year transition period should be sufficient.

IV. CONCLUSION

For the reasons stated above, NAB respectfully submits that no further Commission action is required regarding FEMA's recommendation that the Commission consider ways to modify the EAS to implement persistent EAS alerts, and that the EAN code remain

²³ FEMA Comments at 4; Further Notice at ¶ 49.

²⁴ FEMA Comments at 4; Further Notice at ¶ 50.

²⁵ FEMA Comments at 4.

²⁶ DAS Comments at 4.

²⁷ *Id.*

²⁸ ACA Comments at 6; NCTA Comments at 8.

unchanged while modification of the PEP may be acceptable, provided a sufficient transition period is allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan, Larry Walke, Kelly Williams". The signature is written in a cursive, flowing style.

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