

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

In the Matter of	)	
	)	
Amendment of Part 11 of the Commission’s Rules	)	EB Docket No. 01-66
Regarding the Emergency Alert System	)	RM-9156
	)	RM-9215

**REPLY COMMENTS OF  
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (“NCTA”), by its attorneys, hereby submits reply comments in this proceeding.

In its comments, NCTA generally endorsed the goal of providing more effective EAS alerts but found that some of the proposed changes in the midst of cable’s EAS rollout may cause disruption, increase costs, and result in less voluntary participation in state and local EAS alerts. In particular, we believe that mandating revised EAS codes so soon after large cable operators have implemented their first EAS systems would be unduly burdensome. If the Commission finds, however, that the proposed changes are in the public interest, it should adopt rules that require the revised codes only on new equipment. Systems that have already installed EAS equipment should be given the opportunity to voluntarily retrofit their existing equipment to conform to new codes.

NCTA’s reply comments are directed to one particular issue—the National Association of Broadcaster’s (NAB) renewed attempt to revisit the FCC’s policy against mandatory “selective override.” With a seeming desire to endlessly litigate this matter, NAB again seeks a rule to require cable systems to install equipment to “selectively override” certain cable channels

with EAS alerts i.e., to allow broadcast channels to pass through a system without the cable EAS message when a cable operator activates state or local EAS messages on all channels.

The Commission has at least twice rejected NAB's mandatory selective override proposal. In 1994, and again in 1998, the Commission found that such a policy would be detrimental to cable's ability to alert customers to local emergencies. In the 1998 ruling, following review of an extensive record, the Commission determined that cable systems are better positioned to provide emergency information to local communities.

For instance, the record indicates that many local governments view cable television systems as a primary means of notifying residents about local emergencies since municipalities can control such emergency notifications through cable franchise agreements – control they do not have over broadcasters. The record further suggests that because broadcast stations often serve a wide coverage area crossing hundreds of communities, they may not cover local emergencies that affect only a single community. By contrast, cable franchise agreements frequently require local cable systems to cover all emergencies.<sup>1</sup>

The Commission further noted that cable systems are considered a primary means of alerting residents of non-weather related emergencies, such as hazardous materials spills, which are usually confined to limited geographic areas. The Commission concluded that whether selective override is beneficial may depend upon local circumstances, which argues in favor of making selective override voluntary.<sup>2</sup>

NAB now maintains that the proposed event and location code changes, combined with live news coverage of storm tracking, non-weather events and school closings, justify a change

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<sup>1</sup> Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, 14 Comm. Reg. (P & F) 747 at 752. (citations omitted).

<sup>2</sup> *Id.*, 14 Comm. Reg. (P & F) at 752-53.

in the Commission's policy. According to NAB, if a cable system were to override a television station during a local or national emergency, viewers could be denied critical information.<sup>3</sup>

In making this argument, NAB offers nothing new. The addition of these codes to the existing list, if adopted, will not alter the fundamental conclusion that EAS channel overrides should be based on local circumstances, not a federal mandate. Local cable systems in conjunction with the local communities that they serve are better positioned to determine the most effective means of reaching their customers with critical EAS information.

Moreover, as NCTA has pointed out in the past, the potential cost to cable operators and cable subscribers of mandating selective override is considerable. According to NAB's own estimate, costs would range from \$10,000 to \$15,000 per system.<sup>4</sup> If imposed on the nation's 10,400 cable systems, this amounts to a charge of between \$104 million and \$156 million on an industry-wide basis, with no appreciable subscriber benefits.

### **CONCLUSION**

NAB has provided no basis to warrant a reexamination of the Commission's selective override policy. The Commission should, therefore, reaffirm its existing policy under the EAS rules.

Respectfully submitted,

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<sup>3</sup> Comments of the National Association of Broadcasters, June 11, 2001, at 13-15 ("NAB Comments").

<sup>4</sup> NAB Comments at 14-15.

