

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Revisions to the FCC's)	
Part 11 Rules Governing the)	
Emergency Alert System Pending)	EB Docket No. 04-296
Adoption of the Common Alerting)	
Protocol by the Federal Emergency)	
Management Agency)	

To the Commission

**REPLY COMMENTS OF THE
MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL**

The Minority Media and Telecommunications Council (“MMTC”) respectfully submits these Reply Comments in response to the Public Notice issued in the above-captioned proceeding¹ and the Comments submitted by the National Association of Broadcasters (NAB)² and the Texas Association of Broadcasters.³

I. Introduction

MMTC commends the Commission for having the foresight to recalibrate the Emergency Alert System rules⁴ to accommodate the Federal Emergency Management Agency’s (FEMA) pending proposal to implement the Common Alerting Protocol (CAP). We also applaud FEMA for making an effort to include non-English speakers in its CAP proposal. As the Commission defines it, CAP “will allow the Federal Emergency Management Agency (FEMA), the National Weather Service (NWS), a State Governor, or any other authorized initiator of a public alert and

¹ Public Notice, EB Docket No. 04-296, DA 10-500 (released March 25, 2010).

² Informal Comments of the National Association of Broadcasters (DA 10-500; EB Docket No. 04-296), May 17, 2010 (“NAB 2010 Comments”).

³ Ann Arnold Comments Informally on Behalf of the Texas Association of Broadcasters regarding Revision of the FCC’s Part 11 Rules Governing the Emergency Alert System Pending Adoption of the Common Alerting Protocol by the Federal Emergency Management Agency (EB Docket No. 04-296), May 17, 2010 (“TAB 2010 Comments”).

⁴ See 47 C.F.R. Part 11 (2010).

warning to automatically format and geo-target a particular alert simultaneously to the public over multiple media platforms such as television, radio, cable, cell phones, and electronic highway signs. CAP will also allow an alert initiator to send alerts specifically formatted for people with disabilities and for non-English speakers.”⁵ However, CAP, all by itself, cannot ensure that multilingual emergency warnings will reach those without access to mobile phones or other non-broadcast devices, since an emergency may silence a market’s only multilingual station. Further, CAP does not provide the comprehensive information people need in an emergency – how to seek shelter; where to find food; when it is safe to return; how to be safe upon returning; where to obtain medical assistance; how to find missing loved ones. Only local terrestrial radio’s regular programming is suited to perform that vital function. Therefore, we again respectfully implore the Commission to consider the still-pending Emergency Petition that MMTC, the Spanish Broadcasters Association and the Office of Communication of the United Church of Christ, Inc. offered in 2005, in the wake of Hurricane Katrina, to update the broadcast portions of the EAS rules.

II. Background

The Hispanic population in the United States more than doubled between 1980 and 2000.⁶ In 2008, Hispanics were the largest minority group in the United States, comprising 15.1% of the population.⁷ Given this demographic shift, the federal government must adjust its policies to ensure they adequately address the needs of the changing population. This includes codifying mechanisms to ensure that Spanish speakers, as well as those speaking other widely spoken

⁵ Public Notice at 1.

⁶ See Frank Hobbs and Nicole Stoops, U.S. Census Bureau, “Demographic Trends in the 20th Century” (2002) at 1, 78, available at <http://www.census.gov/prod/2002pubs/censr-4.pdf> (last visited May 12, 2010).

⁷ See American Factfinder, U.S. Census Bureau, ACS Demographic and Housing Estimates: 2006-2008, available at http://factfinder.census.gov/servlet/ADPTable?_bm=y&-qr_name=ACS_2008_3YR_G00_DP3YR5&-geo_id=01000US&-gc_url=null&-ds_name=ACS_2008_3YR_G00_&-lang=en (last visited May 12, 2010).

languages other than English, are able to receive emergency information in their primary language. This is critically important since approximately 20% of the Hispanic population speaks a language other than English as their primary language.⁸ Sixty-two percent of these individuals claim Spanish as their primary language.⁹ Forty-four percent of those who speak a primary language other than English at home do not speak English “very well.”¹⁰

III. The Commission Should Implement The Proposals MMTC Et AL. Made In 2005

On September 20, 2005, in the wake of Hurricane Katrina, during which over 100,000 people were without emergency information because they did not speak English fluently, we filed a Petition for Immediate Interim Relief (“EAS Petition”)¹¹ in response to a Notice of Proposed Rulemaking that sought comment on whether EAS, in its then-current form, was the most effective mechanism for warning the American public of an emergency and, if not, on how EAS could be improved.¹² The EAS Petition requested that the Commission:

- Modify Section 11.14 of the EAS rules to provide that the 34 PEP stations would air all Presidential level messages in both English and Spanish.
- Modify Section 11.18(b) of the EAS rules to include a Local Primary Spanish” (“LP-S”) designation and provide that state and local EAS plans would designate an LP-S station in each of the local areas in which an LP-1 has been designated.
- Modify Section 11.18(b) of the EAS rules to include a Local Primary Multilingual” (“LP-M”) designation in local areas where a substantial proportion of the population has its primary fluency in a language other than English or Spanish.

⁸ See American Factfinder, U.S. Census Bureau, “Population and Housing Narrative Profile: 2006-2008”, available at http://factfinder.census.gov/servlet/NPTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2008_3YR_G00_NP01&-ds_name=&-redoLog=false (last visited May 12, 2010).

⁹ See id.

¹⁰ See id.

¹¹ See Petition for Immediate Interim Relief, In the Matter of Review of the Emergency Alert System, EB Docket No. 04-296, filed September 20, 2005 (“EAS Petition”).

¹² See id. (citing Review of the Emergency Alert System, Notice of Proposed Rulemaking EB Docket No. 04-296, 19 FCC 2d 15775 (released August 12, 2004) (“NPRM”).

- Modify Section 11.52(d) of the EAS rules to provide that at least one broadcast station in every market would monitor and rebroadcast emergency information carried by local LP-S and LP-M stations.
- Modify Section 11.52(d) of the EAS rules to specify that if during an emergency a local LP-S or LP-M stations loses its transmission capability, stations remaining on the air should broadcast emergency information in the affected languages (at least as part of their broadcasts) until the affected LP-S or LP-M station is restored to the air.¹³

The cost incurred by broadcasters in connection with these proposals would be minimal, inasmuch as SBA members' stations have volunteered to feed translations of emergency information to affected stations in markets adjacent to the SBA members' stations.¹⁴ Further, each market's broadcasters could easily, and voluntarily, choose designated hitters and create a cost-sharing arrangement among themselves. Commission intervention would be necessary only when a market's broadcasters fail to make the necessary arrangements.

The Commission should also ensure that the revised rules are flexible enough to accommodate future technologies. As EAS evolves, it is critical that all public warnings are available to non-English speaking people. While no single communications technology has 100% market penetration, all technologies combined have very close to 100% penetration, and all technologies combined also deliver much needed redundancy in reaching the public through many channels in an emergency. Each channel contains some vital information. Wireless alerts and over the air radio programming are both needed.

IV. Response to Comments Filed By National Association of Broadcasters (NAB) and the Texas Association of Broadcasters (TAB)

In its most recent comments, the NAB states that insights from "... representatives of broadcasters and various public interest organizations, specifically Univision, the Minority Media and Telecommunications Council (MMTC), United Church of Christ (UCC), the Independent Spanish Broadcasters Association (ISBA), the Florida Association of Broadcasters

¹³ See EAS Petition at 15.

¹⁴ See EAS Petition at 17.

(FAB), and NAB” offer a viable solution for ensuring multilingual Emergency Alert System (EAS) broadcasts reach non-English speaking populations. The NAB further maintains that this solution is not feasible since “...none of the federal agencies have developed the capacity, plans or budgets to implement originating multilingual alerts”¹⁵ and that “until such time as the federal government implements originating multilingual alerts, voluntary programs created by state and local officials, broadcasters and other interested parties are the preferred and practical approach.”¹⁶ The NAB is referring to a 2007 contemplated but never effectuated test of the MMTC et al. designated hitter plan in Florida. After that test failed to materialize, there were no subsequent efforts to implement a multilingual EAS program in Florida or any other state. Thus, even if Florida’s existing program for multilingual EAS resources were a sufficient model for distribution of multilingual EAS messages, it is still incapable of accommodating the situation that can arise in an emergency (and that did arise in Hurricane Katrina) in which a market’s only station broadcasting in Spanish is forced off the air. In any case, Florida’s voluntary multilingual broadcast system is an anachronism - few other states’ broadcasters have made any effort to address the emergency communications needs of multilingual populations.

NAB contends that the Commission should “refrain from adopting mandatory requirements on the format or content of EAS messages.”¹⁷ However, we reiterate that selection of a “designated hitter” station to serve multilingual populations in an emergency, as well as arrangements for other stations in the market to contribute to its costs voluntarily, would initially

¹⁵ See NAB 2010 Comments at 8 (stating “At this time, however, none of the federal agencies have developed the capacity, plans or budgets to implement originating multilingual alerts.”)

¹⁶ See id. at 7 (stating “Until such time as the federal government implements originating multilingual alerts, voluntary programs created by state and local officials, broadcasters and other interested parties are the preferred and practical approach.”)

¹⁷ See id. at 6 (stating “Expanding access to EAS is a laudable goal, and to the extent possible, broadcasters strongly endorse universal emergency information access for all Americans. However, we respectfully ask the Commission to refrain from adopting mandatory requirements on the format or content of EAS messages.”)

be at the election of local stations. We are not asking that the FCC impose an obligation unless it is necessary to save lives. A mandatory obligation would be necessary only where the stations in the affected market are unable to cooperate and select their own designated hitter.

The TAB maintains that broadcasters should not have to provide multilingual EAS alert services because the federal government is better equipped and positioned to provide these services.¹⁸ TAB further claims that new multilingual emergency alert regulations would likely prove challenging and unfeasible,¹⁹ and that “[s]tate and local governments can provide translated versions of warnings from a central point much faster and more economically than requiring dozens of individual stations to keep fluent staffers available 24/7.”²⁰

However, sterile translations of warnings are not a sufficient response to an emergency. Imagine the outcry if such warnings were all that the nation’s broadcasters offered to English speakers. In addition to warnings, all radio listeners ought to expect that when they surf the dial before, during or after an emergency, they will find at least one station providing, in their widely spoken language, information about how and where to evacuate, where to find medical assistance, food and shelter, how to locate missing loved ones, and when it is safe to return home. That is the least our nation’s broadcasters should provide to all of their listeners in return for the protected use of valuable and free spectrum. If a broadcast license means anything at all, it should mean that every broadcaster will cooperate to save lives in an emergency.

With the 2010 hurricane season upon us, the Commission should grant the EAS Petition forthwith.

¹⁸ See TAB Comments at 5.

¹⁹ See *id.* (stating “Broadcasters also are concerned about the feasibility of regulations the FCC has considered in the past to require stations to provide emergency alerts in languages used by significant numbers of their audiences.”)

²⁰ See *id.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David Honig', with a stylized flourish at the end.

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