

**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

**JOINT REPLY COMMENTS OF THE MOTION PICTURE ASSOCIATION, INC., THE
DIGITAL MEDIA ASSOCIATION, DIGITAL CONTENT NEXT, AND INTERNET
ASSOCIATION**

The Motion Picture Association, Inc. (“MPA”), Digital Media Association (“DiMA”), Digital Content Next (“DCN”), and Internet Association (“IA”) (together, the “Joint Commenters”) submit this joint reply to the comments filed in response to the Federal Communications Commission’s (“Commission”) Notice of Inquiry (“NOI”) in the above-captioned matter.¹ The Joint Commenters’ members represent a wide variety of streaming services accessed over the internet, and thus are ideally situated to comment on the feasibility of streaming service participation in the Emergency Alert System (“EAS”) as the Commission prepares its report to Congress on this question.²

¹ *Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System, Wireless Emergency Alerts*, PS Docket Nos. 15-94, 15-91, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 21-36 (2021) (“NOI”).

² MPA has served as the voice and advocate of the film and television industry around the world since 1922, advancing the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and bringing entertainment and inspiration to audiences worldwide. MPA’s members or their affiliates have developed and now operate some of the most prominent direct-to-consumer content offerings in the world, including Netflix, Disney+, Hulu, ESPN+, Peacock, Paramount+, and HBO Max. DiMA is a nonprofit trade group representing the world’s leading audio streaming companies: Amazon, Apple Music, Google/YouTube, Pandora, and Spotify. Founded in 2001, DCN is the only trade organization dedicated to serving the unique and diverse needs of high-quality digital content companies that manage trusted, direct relationships with consumers and marketers. DCN’s members are some of the most trusted and well-respected media brands that, together, have an unduplicated audience of 223,098 million unique visitors or 100 percent reach of the U.S. online population. IA is the only trade association that exclusively represents global internet companies on matters of public policy. IA’s mission is to foster innovation, promote economic growth, and empower people through the free and open internet.

The record before the Commission is clear on this question, and demonstrates that requiring streaming services to participate in EAS would: (1) be technically impracticable, as there exist major technical and practical impediments to streaming service participation in EAS; and (2) produce little, if any, benefit given that there is not a significant population that does not today receive emergency alerts through the Commission’s robust EAS and Wireless Emergency Alert (“WEA”) programs but who would receive them were EAS obligations extended to streaming services. Moreover, the two comments in the record that claim streaming service participation would be technically feasible fail to address the fundamental issues described above and in more detail below. The Joint Commenters thus urge the Commission to conclude in its report to Congress that streaming-service participation in EAS is neither feasible as a technical matter nor advisable as a policy matter.

I. THE RECORD DEMONSTRATES THAT REQUIRING STREAMING SERVICES TO PARTICIPATE IN EAS WOULD BE BOTH TECHNICALLY IMPRACTICABLE AND UNNECESSARY.

A. Myriad Technical Impediments Demonstrate the Impracticability of Streaming Service Participation in EAS.

The record reflects a broad-based consensus that a number of technical and practical issues would make streaming service participation in EAS enormously technically difficult, if not entirely infeasible.³ Commenters resoundingly agree that ascertaining the location of a

³ See Comments of Consumer Technology Association, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“CTA Comments”); Comments of AT&T, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“AT&T Comments”); Comments of iHeartMedia and Cumulus Media, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“iHM-Cumulus Comments”); Comments of INCOMPAS, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“INCOMPAS Comments”); Comments of TechFreedom, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021); Comments of the National Association of Broadcasters, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“NAB Comments”); Comments of Digital Content Next, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“DCN Comments”); Comments of the Digital Media Association, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“DiMA Comments”); Comments of the Motion Picture Association, Inc., PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“MPA Comments”).

streaming service user with the precision required to identify the population of such users for whom a given emergency alert is geographically relevant would require streaming services to collect and process precise, real-time user geolocation information that many streaming services do not collect today and do not need to provide service.⁴ The record further demonstrates the insufficiency of relying on IP addresses for this purpose, as the Commission raised in the NOI.⁵ Commenters likewise agree that other theoretical alternatives, such as user-provided location data or the use of GPS, are not feasible solutions to the question of how a streaming service provider could ascertain a user’s real-time location for purposes of geotargeting an EAS alert, given that streaming services are fundamentally nationwide in nature and can be accessed from anywhere with an internet connection.⁶ As a result, commenters noted that, to ascertain accurate real-time user location information, “[streaming] [s]ervices would have to re-engineer to allow for far more frequent collection and maintenance of location data for individual users. That data would have to be maintained in real-time - something that currently does not occur and is likely to interfere with existing terms of service, privacy policies, and user expectations.”⁷ Indeed,

⁴ See NAB Comments at 5-6 (“specific geolocation of users would be quite challenging for streaming services when the software used does not specifically request or have access to subscribers’ location data”); DCN Comments at 2 (“Many streaming services do not currently collect precise location data about consumers, and they would have to make significant technical changes to their systems to have the capability to get this information.”); DiMA Comments at 7 (“Geographically accurate delivery of an EAS alert is essential but it would be almost impossible for streaming services absent some significant privacy issues. Services would have to re-engineer to allow for far more frequent collection and maintenance of location data for individual users. That data would have to be maintained in real-time - something that currently does not occur and is likely to interfere with existing terms of service, privacy policies, and user expectations.”); MPA Comments at 9 (“Due to the Internet-based nature of streaming services, users can generally access them over any network and at any location. As such, a streaming service provider does not always— or even often—have accurate information regarding the user’s current location, and generally does not need such information to provide the service.”); AT&T Comments at 7; INCOMPAS Comments at 5; CTA Comments at 6-7.

⁵ CTA Comments at 8; MPA Comments at 9-10; NAB Comments at 6.

⁶ AT&T Comments at 7 (“many of these streaming applications allow multiple users on the same account to stream content in different locations at the same time”); CTA Comments at 7-8 (“myriad devices over which services can be streamed (e.g., televisions, desktop computers, laptops, tablets) often lack GPS receivers and/or have not been given user permission to access location information”); INCOMPAS Comments at Comments at 5; NAB Comments at 6-7; DCN Comments at 2; DiMA Comments at 7-8; MPA Comments at 9-11.

⁷ DiMA Comments at 7; *see also* DCN Comments at 2; MPA Comments at 11; NAB Comments at 7.

collection of user location data at the requisite level of granularity and frequency, “particularly when such data is not necessary to the provision of the service, would raise significant privacy concerns and could subject streaming service providers to substantial compliance burdens and risks under domestic and international law.”⁸

Commenters also agreed that, “[e]ven if streaming services could ascertain reliable and accurate user location information, it is not . . . ‘technically feasible and appropriate for streaming services to differentiate between market areas they serve when determining what kinds of EAS alerts to support.’”⁹ As CTA explained, “[m]any streaming services and internet-connected devices also do not have or are not designed to transmit content based on location in the way that EAS alerts require.”¹⁰ As MPA noted, streaming service participation in EAS “may well be fundamentally incompatible with the manner in which streaming content is delivered over the Internet, particularly because the use of distributed content distribution networks (‘CDNs’) and cached content is foundational to the way in which consumers access streaming content.”¹¹ The record thus makes clear that it would be technically impracticable for streaming services to geotarget and present timely, accurate, and relevant EAS alerts to streaming-service users.

Similarly, the record unequivocally shows that it would be tremendously technically burdensome, if not wholly infeasible, for streaming service providers to monitor for and receive EAS alerts. As AT&T explained:

⁸ MPA Comments at 11; *see also* DiMA Comments at 7-8.

⁹ MPA Comments at 12; *see also* DiMA Comments at 5-6; NAB Comments at 4-5; CTA Comments at 4-6.

¹⁰ CTA Comments at 5.

¹¹ MPA Comments at 12; *see also* DiMA Comments at 5 (explaining that unlike current EAS Participants, “streaming services are not ‘mass media’ that engage in widespread dissemination of a singular message. Instead, these services engage in a single stream per user with the specified content delivered on demand, such that with very limited exceptions, no two users are ever receiving the same stream.”).

Today, streaming providers do not have the resources or technical background to monitor traditional EAS alerts over the daisy-chain method from broadcasting services. Nor do streaming service providers own or operate the EAS equipment for over-the-air reception of alerts, and they do not have the resources to deploy this equipment in every market area they serve . . . While it is potentially feasible for streaming services to receive EAS alerts over an internet interface such as by connecting to the IPAWS system, this option would also involve substantial burdens and create technical complexities.¹²

Indeed, “the current web-based design and architecture of online streaming services does not typically incorporate or even contemplate any localized infrastructure that would enable a streaming service to monitor for EAS alerts based on either geography or the type of event.”¹³

As a result, “the cost of coming into compliance with the patchwork of individualized state EAS plans would be high, given their expansive geographic footprints—areas far greater than the small geographic footprint covered by the typical local broadcaster. And it is not clear that such costs would be justified given the absence of demonstrated benefit in terms of increased coverage of alerts.”¹⁴

B. The Record Demonstrates That There Is No Need for Streaming Service Participation in EAS.

As illustrated above, the record in this proceeding plainly shows that numerous technical and practical obstacles to streaming service participation in EAS make such an approach effectively impracticable, and the burdens and costs associated with overcoming even one such obstacle—let alone all of them—would be immense. Commenters agree that the imposition of such burdens and costs would not be at all justified, in light of the lack of any evidence of a material benefit that would arise from streaming service participation in EAS or any need to

¹² AT&T Comments at 6-7; *see also* MPA Comments at 13-14; NAB Comments at 5; CTA Comments at 3; DCN Comments at 2; DiMA Comments at 3-5.

¹³ NAB Comments at 5.

¹⁴ AT&T Comments at 7.

expand the scope of the Commission’s existing and effective emergency alerting programs.¹⁵ AT&T correctly notes that “EAS participants, including radio and television broadcasters, cable systems, satellite radio and television providers, and wireline video providers, effectively deliver important emergency information to affected populations over television and radio” and that “even if one considers the WEA system in isolation, it is clear that the existing obligations provide emergency alerts to the overwhelming majority of Americans.”¹⁶ As DCN pointed out, “[g]iven the nearly-ubiquitous nature of mobile phones, which are already capable of delivering WEAs and streaming content, many consumers watching or listening to a streaming service will likely receive the alert – either because they or someone in close proximity has a phone in hand or because the consumer is streaming the service on their phone.”¹⁷ MPA observed that, as a result, it is “unlikely that there exists a substantial subset of the U.S. population that (1) has a streaming service subscription or otherwise streams content online, (2) does *not* have a mobile device, and (3) does *not* receive any service from an existing EAS Participant, and therefore would be likely to receive emergency alerts only if streaming services participated in EAS.”¹⁸ There is thus “no evidence that expanding EAS alerting to streaming services is necessary to supplement” the existing EAS and WEA mechanisms.¹⁹ Indeed, the available evidence in the record suggests that, even if it were technically feasible, “additional alerting over streaming

¹⁵ *See, e.g., id.* at 2 (“The existing mechanisms for emergency alerting are effective and reach the vast majority of Americans, and it is unclear that additional alerting mechanisms are necessary or even desirable.”); iHM-Cumulus Comments at 5 (EAS and WEA are “proven systems” in the “proficient and robust distribution structure of emergency alerts”).

¹⁶ AT&T Comments at 2. *See also id.* at 2-3 (“Ninety-seven percent of American adults now have a cell phone, making it easier than ever to rely on WEA to alert them of emergencies no matter the time of day or user location . . . As of December 2019, participating carriers support precise delivery of WEA alert messages to 100 percent of the target area specified by an alert originator.”).

¹⁷ DCN Comments at 2.

¹⁸ MPA Comments at 7.

¹⁹ AT&T Comments at 3.

services may be duplicative and cause consumer confusion or dissatisfaction . . . receiving duplicate or non-relevant alerts has the potential to create alert fatigue causing people to opt-out of life-saving alerts.”²⁰ Such a result would clearly contravene Congress’ and the Commission’s goals for the emergency alerting programs. The Commission should therefore report to Congress that, as the record clearly demonstrates, the costs and burdens associated with streaming service participation in EAS would far outweigh any theoretical, speculative benefits from such an approach.

II. COMMENTS SUPPORTING THE THEORETICAL PARTICIPATION OF STREAMING SERVICES IN EAS FAIL TO ADDRESS THE TECHNICAL AND PRACTICAL CONSIDERATIONS THAT MAKE SUCH AN APPROACH IMPRACTICABLE AND UNNECESSARY.

Two commenters, the National Oceanographic and Atmospheric Administration’s National Weather Service (“NWS”) and the New York City Emergency Management Department (“NYCEM”), submitted brief comments supporting the concept of streaming service participation in EAS.²¹ These comments, however, are cursory and fail to address the numerous practical and technical barriers described above, and thus provide no basis for the Commission to report to Congress that streaming service participation in EAS is either technically feasible or advisable.²²

²⁰ *Id.*; see also Comments of CTIA, PS Docket Nos. 15-94, 15-91, at 10 (filed Apr. 20, 2021) (“Consumers will likely be frustrated to receive multiple alerts on their mobile wireless device and, even more concerning, may choose to optout of receiving alerts altogether.”).

²¹ Comments of the National Oceanographic and Atmospheric Administration National Weather Service, PS Docket Nos. 15-91, 15-94 (filed May 13, 2021) (“NWS Comments”); Comments of the New York City Emergency Management Department, PS Docket Nos. 15-91, 15-94 (filed May 14, 2021) (“NYCEM Comments”).

²² NWS merely states, in conclusory fashion, that “the use of streaming services for emergency alert information will expand message dissemination, particularly to younger audiences.” NWS Comments at 1. As noted in Section I.B, *supra*, however, in light of the ubiquity of WEA-enabled mobile devices, the effectiveness of the existing EAS program, and the lack of any evidence that streaming service delivery of emergency alerts is necessary to supplement the robust EAS and WEA mechanisms, this unsupported assertion is highly questionable.

In addition, NYCEM is incorrect in citing streaming service providers that offer certain geotargeted advertising capabilities, such as Pandora and Hulu, as an example of how streaming services already have the capacity to transmit EAS alerts based on location.²³ As an initial matter, and as MPA pointed out in its initial comments, “if location data is provided by the user and the user opts in to the service provider’s use of such data, some streaming services may leverage user-provided location data to serve targeted advertising to the user. Of course, such capability would only exist for a subset of streaming services, and this is not the case for the many pure subscription and ad-free streaming services available to, and used by, millions of consumers.”²⁴ Further, as NYCEM notes in its comments, the implementation used by Pandora and other services offers limited targeting to advertisers based on, among other attributes, listeners’ self-reported ZIP codes.²⁵ However, while used by some streaming services in the advertising context, this functionality has little value for purposes of delivering geotargeted EAS alerts, which require far more granular and dynamic location data as described above. In fact, NYCEM’s argument on this point demonstrates the degree to which it does not appreciate the technical impediments to streaming service delivery of geotargeted EAS alerts.

The ZIP code information available to streaming services with such advertising capabilities is primarily the address information supplied by users themselves, often on a one-time basis at the time of account set-up. Section I.A above and the record in this proceeding demonstrate the degree to which such static, user-provided location data is not sufficient for purposes of delivering timely, relevant, and accurate emergency alerts. This is because, as noted

²³ NYCEM Comments at ¶ 3.

²⁴ MPA Comments at 12 n.16.

²⁵ This, of course, is not the only configuration of targeted advertising, further underscoring the complexity and impracticability of retrofitting such capabilities to perform a function fundamentally different than the relatively narrow purpose for which they have been developed and implemented.

above, streaming services can be accessed wherever there is an Internet connection, and many streaming services are predominantly accessed through users' mobile devices. The ZIP code that a user provided upon initially commencing service may therefore bear no relationship to the user's location at the time of an emergency requiring an EAS alert. Indeed, the streaming service user traveling, commuting, or simply shopping in another town will find little value in, and may in fact be confused by, hearing an emergency alert targeted to the location in the streaming service provider's records, even assuming the user's primary residence is still at that address.

Moreover, despite the value of ZIP code targeting for advertising, even a correct ZIP code provides location information that is far less precise than would be needed for an effective EAS alert such as one tied to the GPS-based data available to telecommunication providers. While local emergency alerts transmitted by broadcasters find viewers and listeners where they are located and alerts transmitted by cable operators are received by viewers at their fixed locations, any alerts provided through streaming services must be specific as to the listener's exact location in order to afford any value to the public.²⁶ In addition, for example, Pandora's infrastructure requires advertising content to be manually gathered and uploaded to an ad server before it can be presented to end users. Even assuming Pandora—and all other similarly situated streaming services—added the staff necessary to monitor incoming EAS alerts on a 24/7 basis as required for emergency notifications, the time required to upload EAS notices would negate any value of using such current advertising capabilities for transmitting emergency alerts.

Finally, NYCEM is similarly mistaken in arguing that Pandora's ability to provide a video component to its advertising suggests Pandora and similarly situated streaming services

²⁶ As noted in Section I.A, *supra*, even where a streaming service provider can identify a user's location by IP address, that information is also far less accurate than would be needed for EAS alerts.

could readily present the video portion of an EAS alert.²⁷ While Pandora’s technology supports video on certain mobile devices, that technology was not designed for immediate distribution of messages such as would be needed for effective transmission of EAS alerts. Similar to the scenario discussed above, Pandora and other streaming services’ current infrastructure would require human interaction for the video to be uploaded before it can appear on users’ devices, leading to an unacceptable but unavoidable delay in transmitting this emergency information to the public. And, of course, the massive and ongoing investments of time and resources that would be necessary to accomplish this demonstrate the error of NYCEM’s unsupported conclusion that advertising capabilities to support EAS alerts “should be straightforward with limited cost.”²⁸ Instead, as noted above, such costs would far outweigh any benefits generated by streaming service participation in EAS, which benefits would appear to be both speculative and vanishingly small.

III. CONCLUSION.

The Joint Commenters fully support Congress’ and the Commission’s goal of ensuring that relevant, timely, and accurate emergency alerts are effectively delivered to the greatest number of potentially affected Americans, and applaud their ongoing efforts to refine the alerting mechanisms in pursuit of this goal. For the foregoing reasons, however, the Joint Commenters

²⁷ NYCEM Comments at ¶ 4.

²⁸ *Id.* at ¶ 3.

respectfully submit that the Commission should report to Congress that it would be inadvisable, if not technically infeasible, for streaming services to participate in EAS.

Respectfully submitted,

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