

Media Contact:
MediaRelations@fcc.gov

For Immediate Release

FCC PROPOSES FINE AGAINST ESPN FOR IMPROPER TRANSMISSIONS OF EMERGENCY ALERT SYSTEM TONES

Unauthorized Use During Sports Entertainment Promotion Undermines Integrity and Effectiveness of Emergency Alert System

WASHINGTON, October 17, 2024—The Federal Communications Commission today announced a [proposed fine](#) of \$146,976 against ESPN, Inc. in a Notice of Apparent Liability for Forfeiture for six apparent violations of the Emergency Alert System (EAS) rules based on ESPN transmitting, or causing the transmission of, EAS codes during a promotional segment for the start of the 2023-2024 NBA season. In the promo spot, ESPN apparently willfully and repeatedly violated section 11.45(a) of the Commission’s rules, which prohibits transmitting or causing the transmission of the EAS codes or EAS Attention Signal, or simulations thereof (together EAS Tones), in the absence of an actual emergency, authorized test of the EAS, or a qualified public service announcement.

Unauthorized use of the EAS Tones undermines the integrity and effectiveness of the EAS and is a substantial threat to public safety. The use of simulated or actual EAS Tones for non-authorized purposes—such as commercial or entertainment purposes—can lead to “alert fatigue,” causing the public to become desensitized to the alerts, questioning or simply disregarding whether a particular alert is intended to warn about a real, imminent threat or some other cause. Since the EAS codes include operative data elements, the misuse of simulated or actual EAS codes may result in false activations of the EAS that can spread false information or lock out legitimate activations of the EAS.

“Transmitting EAS Tones in the absence of an actual emergency is not a game,” **said FCC Enforcement Bureau Chief Loyaan A. Egal**. “These types of violations can raise substantial public safety concerns by causing confusion and in some cases interfering with legitimate emergency uses. Today’s proposed fine reflects the FCC’s commitment to keep the lines clear when it comes to the proper use of tools broadcasters are entrusted with to assist the public during an emergency.”

On October 20, 2023, the Commission received complaints alleging that ESPN transmitted the EAS Tones, or a simulation thereof, multiple times during a sports-related promotion. In response to the FCC Enforcement Bureau’s Letter of Inquiry, ESPN confirmed that it developed, produced, and transmitted the promo spot, and admits that for each use, ESPN transmitted a portion of the EAS attention signals as part of the promo spot in the absence of a permitted use, such as an actual emergency or authorized test of the EAS. ESPN acknowledged that it transmitted the promo spot a total of six times during October 20-24, 2023, on two ESPN-owned networks. The Commission found that ESPN improperly transmitted EAS codes in apparent violation of the FCC’s EAS rules a total of six times. The FCC proposes a statutory maximum forfeiture of \$146,976 for these six apparent violations.

ESPN has a history of noncompliance with the Commission's EAS rules and was fined in 2015 and 2021 for EAS violations. This prior history was a significant factor in determining the proposed forfeiture in this case.

The proposed action, formally called Notice of Apparent Liability for Forfeiture, or NAL, contains only allegations that advise a party on how they have apparently violated the law and may set forth a proposed monetary penalty. The Commission may not impose a greater monetary penalty than the amount proposed in the NAL. Neither the allegations nor the proposed sanctions in the NAL are final Commission actions. ESPN will be given an opportunity to respond and the Commission will consider submissions of evidence and legal arguments before acting further to resolve these matters.

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).