

STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: The Commercial Mobile Alert System, First Report and Order, PS Docket No. 07-287

Today's *Order* creates a framework for delivering emergency alerts to American mobile phones, as required by the Warning Alert Response Network (WARN) Act. Extending the nation's emergency alert system to mobile phones is an enormous step forward. Now Americans will be able to receive warnings about dangerous weather and other imminent threats (including man-made threats like a terrorist attack) in their immediate area, even if they are not near a television set or radio and even if their electrical power is down. This is good news for all of us—especially in these dangerous times.

I also think it is significant that today's *Order* arises out of cooperation—through a process established by the WARN Act—among public safety representatives; government at the state, local and federal level; federally-recognized Indian tribes; industry; and national organizations representing those with special needs. For the most part, the work of the Commercial Mobile Service Alert Advisory Committee (established by the WARN Act) has been a model of how difficult and important decisions can be reached, and consensus forged, even among diverse stakeholders.

The many experts who dedicated their time and energy to this important effort have made today's decision far more informed, and responsive to technical realities, than it otherwise would be. I thank them for their service, and I hope that this spirit of cooperation and shared dedication to improving public safety can serve as a model for other public safety issues before the Commission. To be sure, there will be times when the agency cannot forge consensus and must act based on the best available evidence before it—because doing so is sometimes necessary to protect the American public. But the fact remains that the Commission and industry are both capable of reaching better outcomes when we work cooperatively, and I hope we can do so more often in the months and years ahead.

Unfortunately, there is one final issue that remains unresolved by today's *Order*—an issue that, if left uncorrected, threatens to vitiate it entirely. So far, no federal agency has stepped up to fulfill the unified aggregator/gateway role that virtually all stakeholders agree is necessary for our mobile alert system to work properly. Indeed, if no agency assumes this role, the rules we enact today will never become effective and Americans will never receive the protection of emergency alerts delivered to their mobile phones.

The unwillingness of the Federal Emergency Management Agency (FEMA) to fulfill this role is especially disheartening because FEMA representatives were intimately involved in developing the idea of a unified Federal gateway/aggregator. In fact, not until long after the die was cast, did FEMA suggest that it would be unable for statutory and other reasons to perform this key function. Specifically, it was less than two months ago—*after* the advisory committee had made its recommendation and *after* FEMA's representative had voted in favor of the unified Federal gateway/aggregator scheme—before FEMA raised any objection to assuming this responsibility.

So now we are left without a firm candidate for a position that is essential to getting this system off the ground. In light of FEMA's recent and unexpected interpretation of its statutory authority, the Commission's only remaining option is to work with its fellow agencies and the Congress to find a federal entity (whether FEMA, another branch of the Department of Homeland Security, or some other government agency) that can fulfill this function.

I certainly wish it had not come to this. Indeed, I would not be shy about suggesting that the FCC take on this function itself—except that our agency (unlike FEMA, the Department of Justice, and the National Oceanic and Atmospheric Agency) does not currently have experience with originating emergency alerts; has not received appropriations for operating an emergency alert system (as FEMA has); and does not have statutory authority to borrow money against the DTV Transition Fund to implement the WARN Act (as the Departments of Homeland Security and Commerce have).

The time may come when the FCC must consider whether to begin the task of creating this infrastructure here at our own agency, and I will not hesitate to head down this road if it looks like the fastest and most effective way to bring mobile emergency alerts to the American people. But for now the most fruitful path appears to be working with the Congress and our fellow federal agencies to see if an institution with experience originating emergency alerts is willing and able to assume this role for the CMAS system. I hope—for all of our sakes—that one will be.