

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY  
APPROVING IN PART AND DISSENTING IN PART**

Re: *Wireless Emergency Alerts*, PS Docket No. 15-91; *Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket No. 15-94

Wireless alerts are one of the many tools that provide Americans with information during emergencies. From tornados to AMBER alerts to terror attacks, these messages can provide beneficial warnings that there is danger ahead or to be on the lookout for a missing child. For this reason, I can generally support such ideas as 360-character alerts, a new category of public safety messages, and narrower geographic targeting as a means to improve the wireless emergency alert (WEA) system. And I appreciate that certain of my edits, including the elimination of the requirement that all legacy networks must support 360-character alerts by a date certain and a reduction in the message log retention mandates, were incorporated into the text.

At the same time, as we make changes to the functionality of WEA, it is necessary to encourage participation by weighing the burdens placed on industry and recipients with ensuring that the system is reliable so that consumers receive necessary information but not annoyed by over alerting. I believe that portions of this item fail to strike such a balance, and this is where my views differ from my colleagues.

First, I cannot support requiring participating wireless providers to add functions that are not based on what can reasonably be achieved with existing technology in realistic timelines. Today's order requires certain components to be completed in 30 months and others in a year. While people will undoubtedly say these timelines are sufficient, these solutions will need to go through the standards process, device and network development, testing, and be deployed into the marketplace. That's not likely to happen within these tight timeframes.

Oddly enough, the further notice appears to acknowledge the difficulties in rolling out changes to WEA when it suggests far more lenient deadlines for the proposals regarding additional improvements to geo-targeting. In this context, participating wireless providers would be given 42 months or 24 months from the completion of all relevant standards, whichever is earlier. This is a far more reasonable timeframe.

We have seen this approach on multiple occasions in the public safety context, such as location accuracy, where political pressures and headlines take precedent over technological feasibility. Big announcements lead to big expectations, which eventually result in multiple waivers because the technology lags behind the hype. Overpromising and underdelivering does not improve public safety.

We also need to consider that standards bodies have their hands full right now preparing for next-generation technologies. I certainly wouldn't want to see 5G deployments stuck on the sidelines in order to incorporate not-ready WEA solutions into the development of 5G networks and devices. This is exactly what is being contemplated by provisions in the further notice.

This trend also permeates the further notice where we propose earthquake alert prioritization and delivery within three minutes, which the system is currently not designed to do and which may not be feasible. We also seek comment on multilingual alerting beyond English and Spanish, which would also require standards and new character sets. To top it all off, the item even acknowledges that many emergency management agencies do not have the capability to send such messages.

Second, we seem completely oblivious to the potential unintended consequences of unproven technologies. The requirement to include embedded references, such as URLs and phone numbers, in WEA alerts is a “beware what you wish for” situation. While the availability of these links may seem useful, affected individuals may not be able to use them, because encouraging Internet use and phone calls at those exact moments could lead to additional congestion on networks that are already at or beyond capacity during an emergency. This is directly contrary to comments from network operators and technical experts, such as the Alliance for Telecommunications Industry Standards, in the record.

Further, the pilot program that is initiated in this item is more than troubled. Take for example the fact that the period for such a trial will conclude and the requirements will go into effect before the standards are likely to be finalized. How does that allow us to determine if network congestion is an issue? Instead of getting answers, we are ignoring the warnings of network operators and experts in network congestion.

The item doubles down on this idea by committing to incorporate multimedia – such as photos, images and maps – into Public Safety Message WEA alerts. This issue will be considered in the further notice, but thorough consideration will need to be given, along with real testing beyond the “voluntary prototyping” envisioned in the order, to the network effects of such messages before we force providers to accommodate additional data-intensive messaging.

Third, we must ensure that WEA is only used when appropriate, otherwise there is increased risk that consumers will opt out of these alerts. My colleagues have claimed that the bombing in New York is illustrative of how the WEA system works and can be improved. But, after the alert was issued to be on the lookout for the suspect, there were articles and social media posts about how it frightened and annoyed some recipients.<sup>1</sup> Now, if some people found the screeching tone of countless cellphone alerts going off in the subway off putting in that context, imagine if the message received was a public service announcement (PSA) informing you of the benefits of WEA alerts. On that point, I strongly oppose the use of emergency alert signals for such purposes as PSAs.

Lastly, the further notice adds a host of questionable ideas, such as requiring a uniform format for alert logging, standardized opt-out menus for consumers, and extensive data collection and annual reporting requirements which will add unnecessary costs for wireless providers with little benefit to consumers. Additionally, the unnecessary point-of-sale disclosures are burdensome and could mislead consumers, because your WEA experience can change depending upon your geographic area, what network you are on, and whether there is congestion.

While I approve a good portion of this item, I must dissent in part for these reasons.

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<sup>1</sup> See, e.g., Rafi Schwartz & Casey Tolan, *The FBI Sent a Massive, Unprecedented, Troubling Emergency Alert About the New York Bombing Suspect* (Sept, 19, 2016), <http://fusion.net/story/348563/fbi-phone-alert-chelsea-bombing-ahmad-khan-rahami/>; Jane Flowers, *Emergency Alert for Terror Suspect Ahmad Rahami Sets Off Phones – NYC* (Sept, 19, 2016), <http://us.blastingnews.com/news/2016/09/emergency-alert-for-terror-suspect-ahmad-rahami-sets-off-phones-nyc-001129285.html>.