

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *In the matter of CBS Broadcasting Inc., et al.*, File No. EB-IHD-18-00027139.

The Emergency Alert System (EAS) and Wireless Emergency Alert (WEA) tones that we use are sacrosanct. The only times a consumer should hear these actual or simulated tones blaring out of a television, radio, or wireless device are in the midst of an actual emergency, to be shortly followed by critical public safety information, or during a clearly defined test of the systems or Public Service Announcement about the systems. I support today's action, which appropriately holds a broadcaster accountable for misusing the tones.

Today's item is compelling, and includes analysis persuasively finding that the broadcaster apparently violated section 11.45 of the Commission's rules. I also would have supported a finding of apparent violations of section 325(a) of the Communications Act of 1934, as amended, prohibiting false distress communications.¹ Given the facts presented, I believe that such a finding would have been amply supported by Commission precedent² and Enforcement Bureau guidance.³

I appreciate the work of the Enforcement Bureau to prosecute this and other recent cases.⁴ Should broadcasters continue to run afoul of the clear and simple requirements imposed upon them by the Act and our Rules regarding the use of EAS tones, I would welcome additional enforcement action. When broadcasters make choices that negatively impact our ability to efficiently convey critical information in situations where life and limb are at risk, we must always be vigilant and respond appropriately.

¹ 47 U.S.C. § 325(a).

² See *Viacom, Inc., ESPN, Inc.*, Forfeiture Order, 30 FCC Rcd 797, 803, para. 14 (2015) (“...[T]he use of EAS Tones, whose sole purpose is to alert the public to emergency situations, in a nonemergency context, is by its nature false and constitutes a violation of Section 325(a), which prohibits false or fraudulent signals of distress.”); *Turner Broadcasting System, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 15455 (EB 2013) (*Turner I*); *Turner Broadcasting System, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 752 (2014) (*Turner II*); *Emmis Broadcasting Corp. of St. Louis*, Notice of Apparent Liability for Forfeiture, 6 FCC Rcd 2289 (1991).

³ See *Emergency Alert System: False, Fraudulent or Unauthorized Use of the Emergency Alert System Attention Signal and Codes is Strictly Prohibited*, Public Notice, DA 13-2123, 28 FCC Rcd 15438 (EB 2013); *False, Fraudulent or Unauthorized Use of the Emergency Alert System or Wireless Emergency Alert Codes or Attention Signals is Strictly Prohibited*, DA 19-758 (EB Aug. 15, 2019) (“False or fraudulent use of the EAS codes or EAS and WEA Attention Signals (or simulations thereof) also may violate section 325(a) of the Communications Act of 1934, as amended (Act), which prohibits transmission of false distress signals.”).

⁴ See *Tegna, Inc.*, Order and Consent Decree, 32 FCC Rcd 4582 (EB 2017); *Meruelo Radio Holdings, LLC*, Order and Consent Decree, DA 19-165 (EB Aug. 15, 2019); *ABC, Inc.*, Order and Consent Decree, DA 19-620 (EB Aug. 15, 2019); *AMC Networks, Inc.*, Order and Consent Decree, DA 19-621 (EB Aug. 15, 2019); *Discovery, Inc.*, Order and Consent Decree, DA 19-626 (EB Aug. 15, 2019).