
**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of:)
)
)
Reliability and Continuity of Communications) PS Docket No. 11-60
Networks, Including Broadband Technologies)
)
Effects on Broadband Communications Networks) PS Docket No. 10-92
of Damage or Failure of Network Equipment or)
Severe Overload)
)
Independent Panel Reviewing the Impact of) EB Docket No. 06-119
Hurricane Katrina on Communications Networks)

To: The Commission

**REPLY COMMENTS OF THE
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

Telecommunications Industry Association

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I. INTRODUCTION AND SUMMARY

The Telecommunications Industry Association (TIA) hereby submits reply comments to the Commission's *Notice of Inquiry* (NOI) in the above-referenced proceeding.¹ TIA is the leading trade association for the information and communications technology (ICT) industry, with 600 member companies that manufacture or supply the products and services used in global communications across all technology platforms. TIA represents its members on the full range of public policy issues affecting the ICT industry and forges consensus on industry standards. For over 80 years, TIA has enhanced the business environment for broadband, mobile wireless,

¹ *Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket No. 11-47, *Effects on Broadband Communications Networks of Damage or Failure of Network Equipment or Severe Overload*, PS Docket No. 10-92, *Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, EB Docket No. 06-119, *Notice of Inquiry*, FCC 11-55 (rel. April. 7, 2011) (NOI).

information technology, networks, cable, satellite, and unified communications. TIA is accredited by the American National Standards Institute (ANSI).

First, TIA believes that the record very strongly shows that the nation's communications networks are reliable, and continue to evolve and improve due to the myriad of voluntary industry standards and best practices, public-private partnerships, and internal company efforts. These efforts are not due to regulations; in fact, the opposite is true. TIA takes issue with comments which assert that improvements in network reliability are not due to competition. TIA also specifically opposes the request on the record to create a sweeping backup power generator requirement for facilities.

Next, TIA believes that should any reliability regulations be adopted pursuant to this item, they ought not to apply to equipment vendors. This policy is consistent with TIA's position on the extension of outage reporting requirements under an existing docket. Not only would this place an unreasonable resource strain on the Commission as well as vendors, but it would disrupt the environment of free engagement and competition between operators and vendors that allows for specifications to be met as innovatively as possible. Simply put, the licensed operator of the network should be the only one responsible for its reliability.

Finally, TIA adamantly opposes suggestions in the record that network reliability be improved by mandating the inclusion of a broadcast chip in all mobile devices. Based on marketplace realities (reflected by a recent survey discussed below), the feasibility of technical parameters of wireless devices, and the Commission's Personal Localized Alerting Network (PLAN) currently

being implemented under the WARN Act, such an adoption would in fact undermine the Commission's goals and efforts.

II. THE RECORD REFLECTS THE VIBRANCY OF INDUSTRY EFFORTS TO ENSURE THAT THE NATION'S NETWORKS ARE INCREASINGLY RELIABLE AND RESILIENT, AND THAT NEW REGULATIONS ARE NOT NEEDED

A. THE RECORD IS OVERWHELMINGLY CLEAR THAT INDUSTRY EFFORTS HAVE AND WILL CONTINUE TO IMPROVE NETWORK RELIABILITY

As TIA noted in its comment on this matter, we support the Commission's goals set forth in the NOI to ensure that the nation's communications networks are reliable and resilient, and recognize the seriousness of issues related to this examination.² In describing the state of network reliability, TIA noted that there are a number of existing efforts underway that contribute to the evolving and continuously increasing reliability of the nation's communications networks. Generally, these fall into three categories: (1) voluntary, consensus-driven standards, (2) best practices, and (3) public-private efforts.³ Given the diversity of stakeholders involved across the government and private sector involved in these efforts, as well as the degree of their success, the position that the Commission can best ensure continued reliability and resiliency of communications networks by supporting and encouraging these activities⁴ is reaffirmed in the eyes of our members.

² See Comments of TIA, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (TIA Reliability Comments) at 3.

³ *Id.* at 10-19.

⁴ *Id.* at 10, 19.

After a review of the responses to the NOI, TIA believes that the record reinforces TIA's assessment. From wireline to wireless, the record contains deep support for the notion that networks are continuously made more resilient due to a high number of best practice, standards, public-private partnership, and competitive-based efforts on the part of industry – all voluntary.⁵ The Commission should recognize that consumer demands and marketplace competitiveness, not proscriptive regulations, are primary drivers of this positive trend.⁶ TIA urges the Commission to recognize the numerous mechanisms currently making networks increasingly reliable, unhindered by Commission regulations.⁷

TIA takes particular issue with a submission from the New York Public Service Commission (NYPSC) which does not reflect the realities of the telecommunications industry and conflicts with a number of conclusions from Federal authorities on the issue of the reliability of communications networks.

First, the NYPSC's asserts that "[t]he same standards for achieving continuity of service and network reliability for traditional telecommunications infrastructure should apply uniformly to

⁵ See, e.g., Comments of the Alliance for Telecommunications Industry Solutions, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (ATIS Comments) at 3-9; Comments of AT&T Services, Inc. PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (AT&T Comments) at 3-12; Comments of CTIA – The Wireless Association, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (CTIA Comments) at 3-12; Comments of Edison Electric Institute, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (Edison Comments) at 8; Comments of the National Cable & Telecommunications Association, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (NCTA Comments) at 4-8; Comments of T-Mobile USA, Inc., PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (T-Mobile Comments) at 18; Comments of the United States Telecom Association, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (USTA Comments) at 2-4; Comments of Verizon and Verizon Wireless, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (Verizon Comments) at 3-13.

⁶ See, e.g., AT&T Comments at 3-4, 14. This is also reflected by the National Security Telecommunications Advisory Committee's (NSTAC) statement that market forces will primarily drive industry practices. See NSTAC, *Next Generation Networks Task Force Report* (rel. Mar. 28, 2006) at 14.

⁷ TIA notes its support for the Commission considering the record from the *Survivability* and *Katrina* dockets in any determinations made pursuant to this docket, and for the closing of both dockets.

wireless and broadband networks” because an outage on one platform will affect others⁸ disregards the differences in technologies used in the Public Switched Telephone Network (PSTN) and IP networks, as well as the fact that measurement of broadband service is much more difficult than determining an outage for compared to a landline telephone user hooked into the PSTN.⁹ The Commission itself has already recognized the widely-held principle that speed is only one measure of broadband performance.¹⁰ Further, this principle’s endorsement by the Commission is evidenced by the creation of the SamKnows effort, which aims to measure American broadband performance.¹¹ For these reasons, the Commission should explicitly disregard this allegation from the NYPSC’s comment.

Second, the NYPSC contends that “competition will not drive reliability and resiliency interests” in their comment, and urges for the Commission to “require all communications providers to conduct a needs-based study to determine what wired and wireless broadband facilities require

⁸ Comments of the New York Public Service Commission (NYPSC), PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (NYPSC Comments) at 4.

⁹ *See, e.g.*, Comments of TIA, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109 (filed Apr. 24, 2011) at 7-8 (“TIA believes that the widely-recognized principle that speed is only one measure of broadband performance...Other network performance measures that can significantly impact the capabilities of broadband service, including throughput, latency, jitter, traffic loading, packet loss, and diurnal patterns. Furthermore, broadband measurements can be misleading because broadband speed, as experienced by the end user, is affected by a multitude of factors, including application type, congestion or misconfiguration of the end user’s home network, congestion in the Internet service provider’s (ISP) network, and congestion in other networks not under the control of the ISP. Judging the worthiness of a broadband network on only one dimension inherently biases the system in favor of technologies that excel along that dimension, but may be comparatively weak along other measures of performance.”).

¹⁰ *See, e.g., Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2010) at ¶ 105.

¹¹ *See* <http://www.samknows.com/broadband/about> (last visited Aug. 29, 2011).

redundancy based upon a common definition of critical services...”¹² TIA encourages the Commission to recognize that (1) the overwhelming majority of the record refutes the NYPSC’s belief that competition does not push network operators and equipment vendors to provide consumers with better service and products, as noted above,¹³ and (2) that this statement, along with a request for network operators to undertake a study of their resiliency, are not grounded in reality given existing standards development,¹⁴ best practice efforts already strongly endorsed by, among others, the Commission’s own Communications Security, Reliability and Interoperability Council (CSRIC),¹⁵ numerous public-private partnerships across Federal agencies,¹⁶ and finally, the fact that providers and vendors already conduct these evaluations internally.

Finally, TIA does not support NYPSC’s suggestion that the FCC expand the Telecommunications Service Priority (TSP) program to include interconnected VoIP providers.¹⁷ The expansion of the TSP program to interconnected VoIP providers would unnecessarily burden over-the-top interconnected VoIP providers that provide service through user self-install or through independent small business installers. TIA believes that any expansion of the TSP program to interconnected VoIP service providers should be limited to those interconnected VoIP providers which elect, on a voluntary basis, to provide TSP services.

¹² NYPSC Comments at 4-5.

¹³ See *infra* at 4.

¹⁴ See, e.g., TIA Reliability Comments at 13-17.

¹⁵ See CSRIC Working Group 6, *Final Report: Best Practices Implementation* (rel. Dec. 2010) at 17.

¹⁶ See, e.g., TIA Reliability Comments at 18-19.

¹⁷ See NYPSC Comments at 5.

B. *THE COMMISSION'S ADOPTION OF A GENERATOR REQUIREMENT AT FACILITIES WOULD BE MISGUIDED*

As TIA noted in its comment on this item, the Commission appears to be focused on a few causes of outages it considers the most common causes (one being backup power), while there are thousands of factors that lead to outages that can best be addressed by allowing network operators to make site-specific decisions to address network reliability.¹⁸ For this reason, TIA believes that adopting a mandate for the inclusion of generator as requested by one commenter,¹⁹ would be misguided. Adopting such a sweeping requirement would remove the ability to make the most informed hyper local decisions, and divert resources that would be used for other site-specific challenges that are of a higher priority. As TIA has noted already, the only party in a position to make such a priority determination is the operator of the facility.²⁰ In support of its position, TIA notes the comment from PCIA that, in the case of wireless facilities, infrastructure “diversity is necessary in order to address the distinctive needs across the network and across the nation. With each unique infrastructure solution – be it a new tower, collocation on an existing site or building, or [distributed antenna systems], come unique considerations for the use of backup power.”²¹ Certainly, there are facilities for which backup power is a lower priority, and other outage causes may be more likely. An accurate perspective on this issue will also recognize that backup power is only a stopgap in lieu of a functional power grid, which communications network providers do not have control over. TIA does not believe that the

¹⁸ See TIA Reliability Comments at 3.

¹⁹ See Comments of Generac Power, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (Generac Comments) at 9.

²⁰ See TIA Reliability Comments at 5-6.

²¹ Comments of PCIA – the Wireless Infrastructure Association and The DAS Forum, a Membership Section of PCIA, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (PCIA Comments) at 6.

Commission intends to remove the ability that network operators have to, at any single facility, mitigate failures in the power grid to the best of their ability.

Commenters suggest a number of ways in which the Commission, aside from not adopting further regulations, can facilitate increased reliability of the nation's networks. For example, TIA suggested that some form of recognition for networks that perform well in times of stress be recognized.²² On the "lack of access" cause, it is suggested that a credentialing system be worked out for facility engineers to ensure networks in disaster areas are brought back up as soon as possible.²³ Others have pointed out that through focusing on the implementation of effective Universal Service Fund reform, the Commission could take great strides in increasing network reliability.²⁴ Another commenter has validly noted that by expediting the site approval process, infrastructure could be more quickly deployed, and networks that much more reliable sooner.²⁵ All of these proposals are worthy of consideration by the Commission as it moves forward in this matter. TIA also lends support to the proposal to expand the CSRIC to encompass the entire internet ecosystem.²⁶ TIA reiterates that above all else, the Commission should avoid overly prescriptive solutions that ignore economic and feasibility realities and inhibit flexibility, such as the Generac proposal.

²² See TIA Reliability Comments at 19-20.

²³ See Comments of the National Association of Broadcasters, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (NAB Comments) at 12.

²⁴ See ATIS Comments at 20.

²⁵ See T-Mobile Comments at 13-14.

²⁶ See NCTA Comments at 10.

III. IF ADOPTED, NETWORK RELIABILITY REGULATIONS SHOULD REST SOLELY ON LICENSED NETWORK OPERATORS, AND NOT EQUIPMENT VENDORS

TIA believes that if new regulations regarding the reliability of a network are adopted, the sole responsibility should lie with the licensed operator of that network.²⁷ This position was also taken in our comments to the Commission on the proposal to extend outage reporting requirements to interconnected voice over internet protocol (VoIP) providers and broadband internet service providers (ISPs), where we noted that equipment providers can address the reporting needs of network operators through existing avenues such as contractual relationships.²⁸

An application of new reliability regulations risks creating barriers to innovation and curtailing investment into the development of new networking equipment. By applying such rules to certain vendors and exposing them to liability for reliability standards, the speed at which equipment is developed will be slowed and per-unit costs will be increased across the industry. This will in turn be passed on to the carriers who purchase the equipment, raising the cost of network deployment, and discouraging investment in new infrastructure.

Additionally, from a resource standpoint, TIA believes that it would be unwise for the Commission to begin delving into the network and mandating specific service requirements for particular pieces of equipment, much less monitoring the data that would follow. Such an

²⁷ See Comments of TIA, PS Docket No. 11-82 (filed Aug. 9, 2011) (TIA Outage Extension NPRM Comments) at 7-9.

²⁸ See TIA Outage Extension NPRM Comments at 8-9. See also ATIS Comments at 14.

undertaking would be extremely draining on the Commission's and equipment vendor's resources. The amount of resources consumed would increase exponentially with how deep the Commission would choose to go in adopting requirements for components of the network. In the case of outage reporting, this drain on resources would also be compounded by duplicitous filings on single events.²⁹ Therefore, should regulations be adopted, the Commission should look to the licensed network operator as the party best situated for assuring compliance.

IV. THE COMMISSION SHOULD DISMISS SUGGESTIONS THAT THE COMMISSION MANDATE BROADCAST CHIPS IN MOBILE DEVICES

TIA is concerned with the National Association of Broadcasters' (NAB) proposal that the Commission "seriously consider how it could promote the deployment of broadcast chips in more mobile devices."³⁰ NAB also appeals to the Commission to "carefully consider the impact that reallocating spectrum from free over-the-air television to paid cellular networks will have on the ability of citizens to receive emergency information, now and in the future."³¹ TIA objects to these statements for a number of reasons.

Mandating wireless devices to include a broadcast chip would raise the cost of producing wireless devices, with the likely outcome being that consumers would pay more for functionality they may not desire or ever use. FM-capable devices are currently available in the U.S. market, though they are not among the top sellers and do not appear to be favored by consumers.

²⁹ See TIA Outage Extension NPRM Comments at 8.

³⁰ NAB Comments at 11.

³¹ *Id.* at 12.

Research from June-July 2011³² shows that from a study of 1,346 radio listeners, aged 15-69, 70 percent use mobile phones. Of this 70 percent, 17 percent own phones which have FM radio capabilities built into the phone. Further, more than half of the respondents in this study stated they use this capability “almost never,” while just 19 percent use it “a few times a week” or “nearly every day.” This bolsters TIA’s belief that if consumers desired broadcast capability in their mobile devices, the market would have responded, and manufacturers and wireless carriers would certainly have met that demand in turn. A number of carriers do not carry handsets that are broadcast-capable, and would consider a requirement to have it in each handset to be a burden. For this reason, it is apparent to TIA that the call for a broadcast chip mandate in mobile devices is not actually about improving public safety, but is a play to buoy the broadcaster business model via mandate. The Commission should not decide what capabilities consumers demand in the products they purchase.

In addition, advocates of this proposed obligation appear unfamiliar with the unique technical requirements of wireless devices. As the Commission is aware, chip and antenna space is at a premium in devices. Requiring that devices carry a broadcast chip may exclude prospects to include *other* functionality that may be more highly valued by consumers, and damage competition among device makers by limiting chances for product variation. For example, requiring a broadcast chip would require a separate antenna to account for the dissimilarities between television or radio wavelengths and cellular/PCS wavelengths. Product design judgments of this kind should be left to the manufacturers and carriers that provide services and functionalities demanded by consumers.

³² See Mark Ramsay Media, *New survey shows when FM is built-in to mobile phones, most consumers don’t use it*, Jul. 27, 2011, available at <http://www.markramseymedia.com/2011/07/new-survey-shows-when-fm-is-built-in-to-mobile-phones-most-consumers-dont-use-it/>.

Finally, TIA strongly believes that such a mandate would contravene the work of the technology industry to implement a new mobile broadcast emergency alert system pursuant to the Warning, Alert, and Response Network (WARN) Act.³³ On May 10, 2011, representatives from Verizon, AT&T, Sprint, and T-Mobile, along with New York City Mayor Michael Bloomberg, FCC Chairman Julius Genachowski, and FEMA Administrator Craig Fugate launched the Personal Localized Alerting Network (PLAN).³⁴ As the Commission describes, the PLAN is a *free* service that will allow consumers with an enabled mobile device to receive geographically-targeted, text-like messages alerting them of imminent threats to safety in their area.³⁵ TIA notes that this addresses the NAB’s claimed distinction between “free over-the-air television” and “paid cellular networks” and the ability of citizens to receive emergency information, particularly given the share of smartphones in the U.S., which are projected to outnumber feature phones by the end of 2011.³⁶ Currently, forty percent of mobile consumers over 18 in the U.S. have smartphones, according to data from July 2011.³⁷ Clearly, the continued adoption of smartphones will increase the utility of the PLAN.

³³ WARN Act, Title VI of the Security and Accountability For Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat. 1884 (2006).

³⁴ See Press Release, FCC, *New York City Unveils First-in-the-Nation Public Safety System; Enabled Mobile Devices will Receive Emergency Alerts at Critical Moments with Potentially Life-Saving Messages*, rel. May 10, 2011 (FCC PLAN Press Release).

³⁵ See FCC, “PLAN” *Personal Localized Alerting Network*, rel. May 10, 2011, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-306417A2.pdf (FCC PLAN Fact Sheet).

³⁶ See Nielson Company, *Smartphones to Overtake Feature Phones in U.S. by 2011*, Mar. 26, 2010, available at <http://blog.nielson.com/nielsenwire/consumer/smartphones-to-overtake-feature-phones-in-u-s-by-2011/>.

³⁷ See Nielson Company, *40 Percent of U.S. Mobile Users Own Smartphones; 40 Percent are Android*, Sept. 1, 2011, available at <http://blog.nielson.com/nielsenwire/?p=28790>.

TIA believes that the PLAN will be an effective supplement, if not *substitute* for, the current emergency alert system (EAS), and therefore urges the Commission to disregard the suggestion that “the Commission recognize that [the PLAN] is a complement, *not a substitute* for the information and services provided by broadcasters” (emphasis added).³⁸ Unaffected by network congestion, PLAN alerts ensure that individuals receive life-saving information in real-time,³⁹ side stepping this concern NAB offers of the PLAN in its comments.⁴⁰ Furthermore, unlike traditional EAS alerts, which require a person to be tuned into a particular broadcast station at the time the alert is sent, PLAN alerts provide immediate notification of government-approved alerts to anyone utilizing PLAN-enabled mobile devices on a specific geographic basis. Despite Common Alerting Protocol updates planned for the current EAS,⁴¹ even this new protocol would broadcast an alert throughout a station’s entire contour to areas that are not intended to be warned by the authorities, causing unnecessary panic and resulting consequences such as 911 call center overloads due to calls from unaffected areas. Only the PLAN can provide the level of delivery targeting that it offers.

PLAN is projected to be up and running in New York City by the end of the year, which is four months ahead the April 2012 deadline imposed by the FCC.⁴² Deployments in other cities are anticipated by the end of this year, and, by next April, PLAN will be deployed in cities across the

³⁸ NAB Comments at 5.

³⁹ FCC PLAN Fact Sheet at 1 (“This new technology ensures that emergency alerts will not get stuck in highly congested user areas, which can happen with standard mobile voice and texting services. PLAN enables government officials to target emergency alerts to specific geographic areas through cell towers (e.g. lower Manhattan), which pushes the information to dedicated receivers in PLAN-enabled mobile devices.”).

⁴⁰ NAB Comments at 8.

⁴¹ See Review of the Emergency Alert System, *Third Further Notice of Proposed Rulemaking*, EB Docket No. 04-296, FCC 11-82 (rel. May 26, 2011).

⁴² FCC PLAN Press Release at 2.

country. As the Commission is aware, substantial industry resources have been devoted to the development, testing, and deployment process and the effort's stakeholders, which include TIA, and we are proud of this effort. PLAN alerts are an *improvement* over traditional EAS alerts. The Commission should take great care not to contravene their own PLAN goals by entertaining a broadcast chip mandate for mobile devices, and should explicitly deny the proposal.

V. CONCLUSION

For the foregoing reasons, TIA urges the Commission to adopt policies consistent with the recommendations above.

Respectfully submitted,

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