

United States Senate

WASHINGTON, DC 20510

October 17, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Chairman Pai:

As we write, massive, uncontrolled wildfires continue to sweep through Northern California. More than 40 Californians have lost their lives, over 40,000 residents have been evacuated, and over 5,700 homes and buildings have been destroyed. We are shocked and saddened by the devastation, and we will do everything in our power to help Californians recover and rebuild—and to make sure this never happens again.

In a crisis like this, receiving a timely emergency alert on your mobile phone can be the difference between life and death. Families may have mere minutes to evacuate. That's why, over ten years ago, a bipartisan group of legislators developed the Warning, Alert, and Response Network (WARN) Act.¹ That law requires the FCC to adopt technical standards for wireless providers to transmit emergency alerts to their subscribers. President Bush, who signed the WARN Act into law, declared that “[i]t is the policy of the United States to have an effective, reliable, integrated, flexible, and comprehensive system to alert and warn the American people in situations of war, terrorist attack, natural disaster, or other hazards to public safety and well-being.”²

In the intervening years, the FCC has worked with the wireless industry to develop a Wireless Emergency Alert (WEA) system for mobile phones.³ These short messages provide essential and time-sensitive public safety information—without requiring any advance planning by subscribers. In theory, the WEA system enables state, county, and municipal authorities to instantly warn their residents. We, like millions of Californians, count on the WEA system to keep us safe.

Recent news reports have indicated that emergency services in Northern California were not able to transmit lifesaving WEA messages, because of significant technical deficiencies in the

¹ 47 U.S.C. §§ 1201-1205.

² Exec. Order No. 13,407 (2006).

³ FCC, WIRELESS EMERGENCY ALERTS (2016), <https://transition.fcc.gov/cgb/consumerfacts/wea.pdf>; Wireless Emergency Alerts Rule, 47 C.F.R. pt. 10.

WEA system. Specifically, because the WEA system does not enable precise geotargeting—a feature that has been standard in mobile applications for years—emergency services cannot send an evacuation message without reaching a large number of unaffected residents. These emergency services are caught in a bind between notifying individuals in imminent danger and risking mass panic.⁴ As a result, these services are compelled to rely on emergency messaging systems with far less reach and far less capacity.

In September 2016, the FCC proposed new rules that would require wireless carriers to enable precise geotargeting of WEA warnings.⁵ We are heartened that you and your colleagues voted in favor of that proposal. You even wrote separately in a concurring opinion, emphasizing the importance of geotargeted alerts. We are disappointed, though, that under your leadership the FCC has not executed on its proposal with a final rule. We are also concerned that the FCC has granted a temporary waiver of the existing, imprecise geotargeting requirements for certain carriers.⁶

We ask for you to respond to the following questions about the future of the WEA system:

1. Have you solicited feedback from emergency services in Northern California about whether the WEA system is meeting their needs and what improvements are necessary? If you have, what feedback have you received? If you have not, will you commit to promptly seeking that feedback and informing us about what you learn?
2. California is not alone in experiencing a natural disaster this year. Hurricanes Harvey, Irma, and Jose have also been tragedies for our fellow Americans. Have you solicited feedback from emergency services in the jurisdictions affected by those incidents to

⁴ See, e.g., State of California, Governor's Office of Emergency Services, Comment on Wireless Emergency Alerts (Dec. 15, 2016), <https://ecfsapi.fcc.gov/file/121636750820/Cal%20OES%20comments%20to%20the%20FCC%20on%20Proposed%20WEA%20Rules%2012-8-16.pdf> (“[T]he public’s trust in WEA’s efficiency benefits further from the . . . precision during emergencies.”); City and County of San Francisco, Department of Emergency Management, Comment on Improving Wireless Emergency Alerts (Dec. 7, 2016), https://ecfsapi.fcc.gov/file/120883278382/CCSF%20FCC-16-127A1_20161207.pdf (“[T]he City strongly believes the Commission should adopt in tandem the commercially available technologies utilized by countless applications in everyday use More targeted, location based alerting will increase adoption by public safety entities and prevent warning fatigue by eliminating over alerting.”); City of Los Angeles, Emergency Management Department, Comment on Support to Improve Wireless Emergency Alerts (Sept. 22, 2016), <https://ecfsapi.fcc.gov/file/1092252720874/Letter%20of%20Support%20to%20FCC%20re%20WEA%20improvements.pdf> (“The WEA system should be able to send out messages to more targeted areas as opposed to a wider area which is not in an impacted zone. . . . We need to be able to send out more precise messaging to areas which are directly impacted by an incident instead of being forced to include the wider general population. The lack of this capability causes confusion and discredits the use of messaging in this form.”).

⁵ FCC, Report and Order and Further Notice of Proposed Rulemaking (Sept. 29, 2016), https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-127A1.pdf.

⁶ FCC, Public Safety and Homeland Security Bureau, Order (Sept. 15, 2017), <https://ecfsapi.fcc.gov/file/09152926201169/DA-17-903A1.pdf>.

understand how the WEA system is meeting their needs and what improvements are necessary? If you have, what feedback have you received? If you have not, will you commit to promptly seeking that feedback and informing us about what you learn?

3. Do you intend to proceed with the WEA rulemaking that the FCC initiated over a year ago? If you do, will you commit to expeditiously completing the rulemaking? If you do not, why not?
4. Several technology vendors have taken the position that incorporating precise geolocation into the WEA system is technically infeasible or excessively burdensome. Our assessment, confirmed by experts we have consulted, is that these technical objections are unfounded. Have you evaluated the technical feasibility of incorporating precise geolocation into the WEA system, and if you have, what have you concluded?

In light of the ongoing emergency in our state, we request your reply by October 24, 2017.

Sincerely,



Kamala D. Harris
United States Senator



Dianne Feinstein
United States Senator

Cc: The Honorable John Thune, Chairman, United States Senate Committee on Commerce, Science, and Transportation
The Honorable Bill Nelson, Ranking Member, United States Senate Committee on Commerce, Science, and Transportation
Lisa Fowlkes, Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission