



EHT'S LEGAL ACTION IS MOVING FORWARD

Important Amicus Briefs have been filed.



Washington, DC, — Environmental Health Trust (EHT), the scientific think tank headed by Devra Davis PhD, MPH, filed its principal brief in the U.S. Court of Appeals for the District of Columbia on July 31, 2020 in a landmark case against the Federal Communications Commission (FCC). The appeal is aimed at getting the FCC to reconsider, revise, and update its 24-year old exposure limits for radio-frequency radiation (RFR) from cellphones, cell towers, Wi-Fi networks, smart meters, and other wireless communication devices and facilities.

Since the opening brief was filed, Amicus Briefs have been filed by the Natural Resources Defense Council, Attorney Joe Sandri, Catherine Kleiber and the Building Biology Institute. We have provided links to Amicus Briefs below.

The FCC opened an Inquiry into the adequacy of its exposure limits in 2013 after

the Government Accountability Office issued a report in 2012 stating that the limits may not reflect current science and need to be reviewed. In response, hundreds of scientists and medical professionals submitted a wealth of peer-reviewed studies showing the consensus of the scientific community is that RFR is deeply harmful to people and the environment and is linked to cancer, reproductive harm, and other biological ills to humans, animals, and plants.

Notwithstanding the extremely well-documented record of these negative impacts from RFR, the FCC released an order in December 2019 deciding that nothing needed to be done and maintaining that the existing, antiquated exposure limits are adequate now and for the future.

In large measure, the FCC simply ignored the vast amount of evidence in the record showing an urgent need for action to protect the public and the environment. EHT contends that the FCC ignored the recommendations of hundreds of medical experts and public health experts who called for updated regulations that protect against biological impacts and for the development of policies to immediately reduce public exposure.

The brief contends the FCC has violated the Administrative Procedure Act (APA) because its order is arbitrary and capricious, and not evidence-based; violated the National Environmental Policy Act (NEPA) because the FCC did not take a hard look on the environmental impacts of its decision; and violated the 1996 Telecommunications Act (TCA) because the FCC failed, as required by the TCA, to consider the impact of its decision on the public health and safety.

Next steps are the FCC will file a reply in mid September and we will file a reply to the FCC reply mid October. Oral arguments are expected to be scheduled after Spring 2021.

“We submitted numerous studies clearly documenting adverse effects at radiofrequency levels allowed by the FCC. Our published research sent to the FCC concludes that radiofrequency radiation is an established human carcinogen. Cell phones held close to the head will substantially increase the risk of a type of brain cancer—glioblastoma. Yet FCC limits do not protect against cancer nor any other disease,” stated Dr. Anthony B. Miller, Professor Emeritus at the Dalla Lana School of Public Health, University of Toronto and former Director of the Epidemiology Unit of the National Cancer Institute of Canada. “FCC limits only protect against overheating living tissue. The FCC’s so called ‘safety’ limits are based on decades old science that only investigated short-term effects. Those limits are based on the proven false and erroneous assumption that heat is the only harm from radiofrequency microwave radiation.”

“Environmental Health Trust has worked for a decade to protect the public from environmental pollutants,” said Devra Davis PhD, MPH. “Our children deserve safe technology and there is no negotiating with their future. As the legacy of lead, asbestos, and tobacco teaches us, this issue deserves the immediate attention of our federal government in order to protect our children’s healthy future.”

“The FCC entirely ignored the recommendations of the American Academy of Pediatrics, hundreds of scientists and over 30 medical and public health organizations. Wireless emission limits should protect children who will have a lifetime of exposure,” stated Theodora Scarato, Executive Director of Environmental Health Trust. Scarato pointed out that the FCC “saw no reason to take steps to protect children” despite voluminous scientific evidence on the record showing that children are uniquely vulnerable due to their developing brains and bodies.

“Equally shocking is how the FCC could state that the existing limits which were developed in 1996 are protective without even addressing the impact of the existing limits on the natural environment. In this regard, there was a noticeable absence of on-the-record comments by the EPA. In fact, the EPA recently stated that it has no funded mandate to even review research on RFR. Yet there is a great deal of evidence in the FCC proceeding showing that radiofrequency radiation is harmful to birds, bees and trees.”

Last year, the FCC revisited its wireless safety standards and found that the current regulations did not need to be changed. But according to the lawsuit, prolonged exposure can impair development in children, lead to radiation sickness, cancer and is also associated with negative environmental impacts, such as impacts to trees, bees and birds.

The petitioners are represented by Edward B. Myers W. of the Law Office of Edward B. Myers; and W. Scott McCollough of the McCollough Law Firm P.C. The FCC is represented in-house by William J. Scher, Ashley Stocks Boizelle, Jacob M. Lewis and Richard Kiser Welch.

- Video of Press Conference
- Opening Brief
- EHT Submissions to 13-84
- Amicus of NRDC: Natural Resources Defense Council
- Amicus of Attorney Joe Sandri including declaration of Dr. Linda Birnbaum, former Director of the National Institute of Environmental Health Sciences

- Amicus of Catherine Kleiber.
- Amicus of the Building Biology Institute.

News Reports on the Case

- TR Daily News: FCC Ignored Health Impacts of Inadequate RF Limits, July. 30, 2020
- Law 360: FCC Ignoring Evidence Of Wireless Tech Harms, DC Circ. Told, July 31, 2020
- Consumer Electronics Daily, RF Safety Group Says FCC Rules Are Based on Old Science; Asks Court to Order Update, July 31, 2020

Stay updated by regularly checking in to [EHTs webpage on the Lawsuit HERE.](#)

Your generosity has made this possible. A win against the FCC is critical to halting the deployment of 5G. The FCC wants to apply its outdated limits to 5G's higher frequencies — without any concern for the biological health effects of wireless radiation. Our legal appeal forces the FCC to review the science and update its limits. Please donate today.

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