

FACTSHEET: ENVIRONMENTAL HEALTH TRUST ET AL. V. FCC

FCC's Lack of Adequate Review for Wireless Radiation Exposure Limits

LANDMARK FEDERAL COURT RULING AGAINST THE FCC

On August 13, 2021 the U.S. Court of Appeals for the D.C. Circuit ruled the Federal Communications Commission (FCC) ignored scientific evidence and failed to provide a reasoned explanation for its determination that its 1996 regulations adequately protect the public against all the harmful effects of wireless radiation.

FCC'S REFUSAL TO UPDATE 1996 LIMITS

The legal case challenged the FCC's 2019 decision not to update its 1996 regulations regarding allowable radiofrequency radiation (RF) exposures from wireless technologies - including 5G, cell phones, cell towers, Wi-Fi, and wireless networks.

EVIDENCE OF HARMFUL EFFECTS BELOW FCC LIMITS

FCC limits are based on the outdated belief that heating is the only proven harm from RF. Over 11,000 pages of evidence - 447 exhibits in 27 Volumes - was submitted to the Court documenting biological effects and illness from wireless radiation exposure below heating levels. Research has found brain damage, headaches, memory problems, reproduction damage, synergistic effects, nervous system impacts, brain cancer, genetic damage, as well as harm to trees, birds, bees, and wildlife.

THE COURT FINDINGS

The ruling stated that the FCC's "arbitrary and capricious" decision to maintain their 25 year old exposure limits did not address evidence indicating "non-cancer" harm such as:

- impacts to children
- testimony of persons injured by wireless radiation
- impacts to the developing brain
- impacts to the reproductive system
- impacts to wildlife and the environment

THE COURT ORDER

The Court ordered the FCC to provide a reasoned determination as to whether the evidence warrants a change to 1996 RF limits especially in regards to:

- children's vulnerability
- long-term exposure
- environmental impacts
- new technological developments and the ubiquity of wireless
- how FCC's cell phone tests only measure heat and allow a space between the phone and body.

"The factual premise—the non-existence of non-thermal biological effects—underlying the current radiofrequency (RF) guidelines may no longer be accurate."

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TIMELINE

1980s: EPA tasked to develop RF safety limits for heating and biological effects.

1996: EPA is fully defunded and halts all research on RF. The FCC adopts RF limits developed by industry-tied groups- based on heating.

1999: FDA requests the National Toxicology Program (NTP) study RF because of the lack of safety data on long-term exposure.

2008/2009 Congressional Hearings

2011: Wireless RF classified as a "possible" Class 2B Carcinogen by International Agency for Research on Cancer.

2012: GAO Report recommends rules be reassessed to reflect current use patterns and recent science.

2013-2019: FCC opens record on RF limits - gets over 1000 submissions.

2018: NTP/NIH releases \$30M animal study concluding "clear evidence" of cancer. FDA rejects the findings.

2019: FCC closes record, decides not to update its 1996 wireless RF limits.

2020: Cases filed against FCC.

2021: Ruling against FCC.

Link to timeline hyperlinked to sources.

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THE BOTTOM LINE

FCC Compliance Does Not Ensure Safety

Most of the public assumes that current FCC safety limits for cell phones, cell towers, Wi-Fi, 5G, and wireless networks are based upon an up to date robust review of all relevant research. This assumption of safety is now clearly documented to be erroneous.

Lack of Oversight by Health and Environmental Agencies

The ruling reveals a lack of accountability with our federal health agencies regarding wireless radiation. The EPA, CDC, NIOSH, and NCI did not submit any reports to the Court, revealing that none of these agencies has reviewed the science on health effects to ensure safety for the public. The U.S. has no pre-market safety testing for health effects, no post-market surveillance, no environmental monitoring, and no meaningful interagency coordination.

FDA's Dismissal of Harm Deemed Insufficient

The Court states the FCC improperly relied on the FDA's conclusions that RF limits did not need an update. The FDA's submissions were described by the Court as " cursory" and "insufficient." Although the FDA later released a literature review, it was only focused on cancer, further confirming the fact that the FDA and U.S. safety agencies have failed to evaluate the numerous health effects documented in scientific studies, such as brain and reproductive system impacts. A U.S. government review of the full body of recent science has simply never been done.

The Court Did Not Agree That "Cell Phones Do Not Cause Cancer"

Contrary to the wireless industry's recent claims, the Court did not make a scientific determination regarding wireless and cancer. The ruling simply stated that in regards to cancer- the FCC passed the minimum legal requirement for adequate review by at least referencing the reasons why the FCC dismissed cancer evidence. The FCC cited rejections of NIH studies by the FDA and ICNIRP - a small group with no oversight and members have a long history of industry ties.

Children's Vulnerability Ignored by the FCC

The Court states the FCC "dismissed" the American Academy of Pediatrics recommendations for strengthened regulations that ensure children and pregnant women would be protected. The Court found the FCC failed to explain why it ignored research indicating children were more vulnerable to wireless: their developing brains are more sensitive, they absorb higher levels of RF deeper into their brains, and they will have a lifetime of exposure.

Wildlife Remains Unprotected

FCC's limits were designed in 1996 to protect only humans, not flora or fauna. The Court found that the FCC had "completely failed" to address the "substantive evidence of potential environmental harms" on the record, which included science showing serious impacts to birds, bees, trees, and plants.

"In the Department of the Interior's expert view, the Commission's RF radiation limits "continue to be based on thermal heating, a criterion now nearly 30 years out of date and inapplicable today."

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PETITIONERS

Environmental Health Trust (EHT), Consumers for Safe Cell Phones, Elizabeth Barris, and Theodora Scarato.

Children's Health Defense (CHD), Michelle Hertz, Petra Brokken, Dr. David Carpenter, Dr. Toril Jelter, Dr. Paul Dart, Dr. Ann Lee, Virginia Farver, Jennifer Baran, and Paul Stanley M.Ed. CHD's case was consolidated with EHT's case by the Court.

Briefs and evidence were jointly filed.

KEY RESOURCES

- Court Ruling 8/13/2021
- Evidence (11,000 pages)
- EHT Press Conference

Go to [EHTrust.org](https://ehtrust.org) for more.