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Sent January 31, 2023, sent updated February 8, 2023 and sent updated again February 16

Questions regarding 4G/5G cell antenna installations in New York City

Dear Mr. Matthew C. Fraser and Ms. Stacy Gardener, New York City Office of Technology and Innovation,

We have some questions that we have repeatedly emailed to the City in regards to the new 5G poles. Specifically please respond to each question, one by one for clarity, with links or attachments to sources. We also note inaccurate information has been put forward regarding the FCC's review

In addition, OTI staff had made a variety of conflicting statements regarding the existence of testing for radiofrequency radiation¹ levels raising questions about why there is no transparency in such reports that supposedly exist per the statements of OTI staff.

The entire New York City community should be informed of these tests and the results. They should have the full reports for installations that are currently installed.

The City should be ensuring compliance with RF regulations for human exposure by requiring independent (not the carriers nor their consultants) pre installation RF tests, preinstallation RF modeling tests and after

1

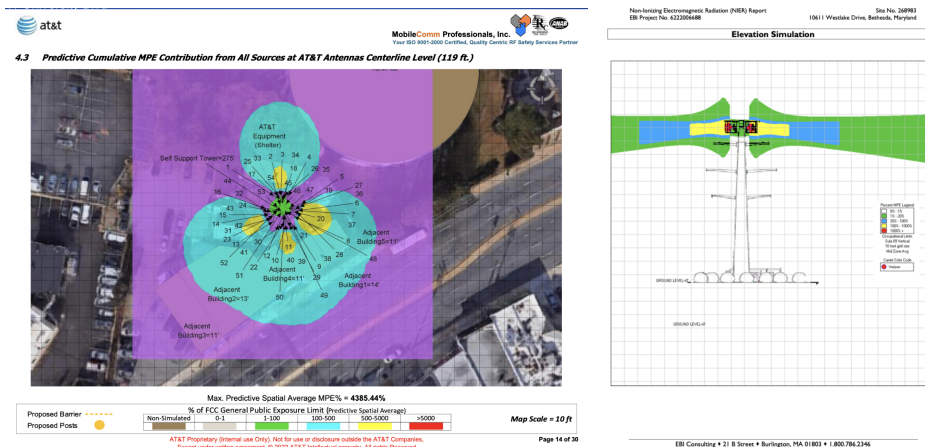
1. On 1/25/23 at a 6:30 pm presentation at Queens Community Board 1, OTI's Stacey Gardener stated that RF radiation measurements were done for the 5G and wireless facilities by an independent individual. Start here [at minute 2:32](#). When Board members asked if they could see the results of the RF Radiation safety tests they were told by Stacey Gardner "We could share an example of one... we'll follow up with you."
2. However later in a February 8, 2023 community board meeting with BKCB4 Bushwick the OTI stated that they had seen such RF compliance reports from wireless installations in the city but that none had been done for their installations. Please correct me if I am wrong.
3. In a February 9th CB meeting, it was stated by Brett Sikoff that "we will test" for RF compliance.
4. New York Open records shows a FOIL request FOIL-2022-858-00288 regarding RF compliance reports on 5G filed in December 2022 but so far there has been no response.
5. In a [2/16/23 Queens Community Board 6 Executive Committee meeting](#) Brett Sikoff stated, "We ensure that our franchisees follow those guidelines and maintain compliance .. and all the tests that we have performed using an independent expert on the light poles have come in that the RF emissions are multiple times below FCC maximum permissible exposure and... we fully expect that they will be in compliance with federal guidelines."

installation RF tests. These should not only be simulations but in fact, real world actual measurements of the actual levels. *All of this should be publicly posted for full transparency.*

The public deserves full transparency regarding the type of installation, radiation levels and oversight for health and safety issues.

Here are my questions. Please answer them one by one for clarity.

1. For each proposed wireless installation, where can the public access the full permit application for the carriers themselves which includes 1. the type of antennas, 2. modulations and 3. power output with all technical specifications. For each installation, please also specify the 4. specific companies and carriers involved as well as 5. what exact services they are offering via the equipment.
2. For each proposed and installed wireless installation, where are the full reports and measurements on Radiofrequency (RF) radiation compliance to ensure FCC limits are adhered to? (Examples would look like [this](#), [this](#) and [this](#) as these reports are generally public knowledge in other Cities.) [See image examples below from Kensington Maryland](#) and [Bethesda Maryland](#). It was stated on February 13, 2023 that there are 2000 poles already up so according to OTI.



statements and half truths regarding the level of health impact review by federal agencies² putting forward the myth that:

- a. **That the FCC has repeatedly reviewed the RF limits.**[Minute 1:10:17](#) Nick Colvin states “*The FCC sets limits that are based on scientific study, those, contrary to some statements, have been reviewed repeatedly over the years by the FCC. the FDA has also looked into this.*” This is inaccurate. The FCC only opened up one Inquiry in 2013 ([FCC's Inquiry Asking if RF Limits Should be Updated](#) DA/FCC #: FCC-13-39 Docket/RM: 13-84, 03-137), a process requesting comments on the question of if a review is needed, and the [FCC decided in 2019](#) there was no need to review limits. However, in 2021, the United States Court of Appeals for the District of Columbia Circuit [ruled](#) that the 2019 decision by the FCC to retain its 1996 safety limits for human exposure to wireless radiation was “arbitrary and capricious,” because the FCC did not show evidence of reviewing record evidence ([read evidence on the docket here](#)) related to long term exposure, children’s vulnerability, non cancer harms (such as impacts to brain development and reproductive organs, wildlife and environment).
- b. **That our lawsuit was not about the FCC’s 2019 determination.** ([Minute 52:12](#)) Robert Sokota states, “*it was not an attack indicating that the 2019 reaffirmation of the limits set by the FCC were wrong...*” The FCC was found to have broken the law in its determination that its limits did not need to be updated. It was ordered to respond and so far has not responded with any documentation regarding how it made the determination. [Read court ruling](#). The 2021 court judgment ordered the FCC to
 1. “provide a reasoned explanation for its decision to retain its testing procedures for determining whether cell phones and other portable electronic devices comply with its guidelines”
 2. “address the impacts of RF radiation on children, the health implications of long-term exposure to RF radiation, the ubiquity of wireless devices, and other technological developments that have occurred since the Commission last updated its guidelines”
 3. “address the impacts of RF radiation on the environment.”

Thus, the FCC 2019 decision cannot be considered one which met obligations of the law and it also cannot be referred to as proof that the FCC has properly reviewed the issue to ascertain safety as they were found to have violated the APA.

- c. **That the FDA has reviewed cell tower radiation studies to make a safety determination.** [2/13/2014 Meeting CB 3 Manhattan](#) Nick Colvin stated that, “*The impacts of of cellular radios on health has been studied for for decades um and is uh you know there are there are safety standards and limits set by the the FCC and that have been corroborated by the FDA ...*” However this is inaccurate as the FDA has no authority nor research activities related to cell tower radiation.

The lack of FDA health risk assessment in regards to cell towers was confirmed in a January 11, 2022 letter by Ellen Flannery of the Director of the FDA Office of Policy Center for Devices and Radiological Health who was asked about the safety of a cell tower outside a California mother’s window and stated, “*The FDA does not regulate cell towers or cell tower radiation. Therefore, the FDA has no studies or information on cell towers to provide in response to your questions.*” [Link to FDA Letter](#).

²[2/13/2014 Meeting CB 3 Manhattan](#) statements were made that the FDA somehow has found FCC limits to be safe include “The impacts of of cellular um radios on health has been studied for for decades um and is uh you know there are there are safety standards and limits set by the the FCC and that have been corroborated by the FDA um and numerous other um organizations governmental and non-governmental as being safe within these limits...” and statements that inaccurately characterize the FCCs level of review such as ([minute 1:10:17](#)), “The FCC sets limits that are based on scientific study those contrary to some statements have been reviewed repeatedly over the years by the FCC. the FDA has also looked into this... I was just looking at a published review ” statements that accurately characterize the court judgment in EHT et al v FCC judgment

On March 29, 2022 Laurie Lenkel FDA Ombudsman also confirmed that the FDA could not respond to questions regarding 5G.

In follow-up to our initial conversation, FDA is responsible for protecting the public health from hazardous or unnecessary radiation from radiation emitting *electronic products*. The Federal Communication Commission (FCC) has jurisdiction over all radiofrequency transmitting structures in the United States. Therefore, the 5G tower you inquired about is under the authority of the FCC, not the FDA. I have copied Howard Gribhoff on this message so that he is aware of the limitation of FDA's authority.

When I inquired into your concerns I found that a few months ago the Deputy Director of FDA's Center for Devices and Radiological Health (CDRH) explained the scope of FDA's regulatory authority as well as responded to your questions. In addition, the Ombudsman for CDRH offered to be your contact if you had any new questions that had not been answered by the Center.

I understand that this issue is very important to you. I hope this information is helpful.

Laurie

Laurie Lenkel
FDA Ombudsman
<https://www.fda.gov/about-fda/office-chief-scientist/fda-ombudsman>

The FDA also stated on June 20, 2016 that "We don't have jurisdiction over cellphone towers since those are environmental emitters."

From: Kassiday, Daniel F. H.
Sent: Monday, June 20, 2016 2:36 PM
To: Nambiar, Madhusoodana; Loloei Marsal, Ana; Pastel, Mary; O'Hara, Michael D; McFarland, Scott
Cc: Pirt, Nancy
Subject: RE: FDA Citizens Petition on Cell Phones, Docket # FDA-2013-P-1374
(b)(5) Deliberative Process . We have already considered the NTP study partial result draft which was released. We don't have jurisdiction over cell phone towers since those are environmental emitters.

Daniel Kassiday

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This communication is consistent with 21 CFR 10.85(k) and constitutes an informal communication that represents my best judgment at this time but does not constitute an advisory opinion, does not necessarily represent the formal position of FDA

The fact is that no federal agency has reviewed 5G's unique modulation, nor has any federal agency reviewed the totality of the science on the health effects of cell tower radiation, nor has the FDA scientifically reviewed the issue of 5G or cell tower radiation to make a health risk assessment to opine on the safety of chronic full body exposure to RF as you would get from the proposed 4G/5G facilities in New York.

To anyone reading this letter who believes such an assessment by a federal agency exists, we request that you see if you can find the actual U.S. government scientific research review/risk assessment that does address the health effects of 4G/5G radiation from base stations *including of course endocrine impacts, reproductive impacts, oxidative stress and impacts to brain development.*

6. What agency with health, environment or public health expertise is ensuring that 5G and 4G installations are safe for the public? Is there a research report that has reviewed the latest science, and done a risk assessment to ensure safety? If so, please send it.
7. Are there any restrictions for wireless installations near schools in regards to these installations? Many cities and towns have policies to restrict cell antennas near schools ([see here](#)).
8. Once a facility is approved by the City, can more antennas be added later in time? If so, what is the process for this? How tall could the installation get after such modification? Is there a public process for these additional antennas?
9. How are trees protected? Please see research on damage to trees at [Waldmann-Selsam et al 2016](#) and [Kaur et al 2021](#)). Are there any setbacks for the root zone or tree canopy? ([Many other communities have setbacks for trees.](#)) Are there any restrictions in place to minimize tree trimming?
10. What environmental review was done and please do share the reports. Normally you at least provide an Environmental Assessment Statement for citywide wireless franchise installations. *Why can no EAS be found for these new much more dense provider installations?*
11. How can the public be assured that the installation of antennas emitting higher frequencies will not impact bees and insects? Research does indicate that higher frequencies uniquely impact insects. ([Balmori 2015](#), [Levitt et al, 2022](#), [Levitt et al., 2021a](#), [Levitt et al., 2021b](#), [Levitt et al., 2021c](#), [Thielens et al, 2018](#), [Favre 2011](#)). What evaluation has been performed to ensure no harm to pollinators?
12. What OSHA safety precautions are you instituting for those who are pruning the trees and/or workers (painters, window washers) will be in close proximity to the antennas?
13. The City keeps stating that these installations are important to fill data gaps. Where can we find the reports on needs assessment in terms of broadband in the City and where is the data showing that these wireless installations outside residences *will actually connect the unconnected? Did the reports on needs investigate or offer solutions to connect those who lack service?*
14. **Where is the report that shows what residents need affordable fiberoptic into their home?** We see that there are reports presented by OTI about households that lack broadband but what is the cause of this? Is it a lack of affordable service for the household or that fiberoptics and internet connections are not available? This is an important difference as the current model purports to bridge the digital divide by offering wireless, rather than simply ensuring affordable broadband to households, along with affordable devices and training (measures shown to actually support connectivity).
15. Please provide the input you received, in consulting with industry, in order to shape the design of these installations. In addition to today's services, what future uses are they foreseeing? And hoping to provide?
16. Where is the master plan on the deployment of this infrastructure? If one does not exist then why not? Master plans are done with other infrastructure, why not this?

Thank you very much for your consideration of these questions

Theodora Scarato
Executive Director
Environmental Health Trust

[Please see research questioning 5G safety assumptions here.](#)

- European Parliament requested a research report [“Health Impact of 5G”](#) which was released in July 2021 and concluded that commonly used RFR frequencies (450 to 6000 MHz) are probably carcinogenic for humans and affect male fertility with possible adverse effects on the development of embryos, fetuses and newborns.
- A review paper entitled [“Limiting liability with positioning to minimize negative health effects of cellular phone towers”](#) reviewed the “large and growing body of evidence that human exposure to RFR from cellular phone base stations causes negative health effects.” The authors recommend restricting antennas near homes and within 500 meters of schools and hospitals to protect companies from future liability ([Pearce 2020](#)).
- A review entitled [“Evidence for a health risk by RF on humans living around mobile phone base stations: From radiofrequency sickness to cancer”](#) reviewed the existing scientific literature and found radiofrequency sickness, cancer and changes in biochemical parameters ([Balmori 2022](#)).
- An [analysis](#) of 100 studies published in Environmental Reviews found ~80% showed biological effects near towers. “As a general guideline, cell base stations should not be located less than 1500 ft from the population, and at a height of about 150 ft.” ([Levitt 2010](#))