FACTSHEET: ENVIRONMENTAL HEALTH TRUST ET AL. V. FCC

COURT RULING ON FCC'S LACK OF ADEQUATE REVIEW FOR WIRELESS 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 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

TIMELINE

1980s: EPA had robust research program and was tasked to develop RF safety limits by U.S. Science Advisory Board.

1995: EPA presents to FCC on the EPA timeline for its development of human exposure RF limits which would include both thermal effects and non thermal effects.

1996: EPA is fully defunded by Congress amid heavy lobbying for Telecom Act and halts all research on RF.

1996: The FCC adopts RF limits developed by industry-tied groups - based on short term heating - thermal- effects from high power exposures (based on studies of small animals exposed to high RF levels for under an hour).

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: U.S. Court of Appeals, D.C Circuit ruled that the FCC decision not to change human exposure limits and regulations was "arbitrary and capricious." FCC ordered to respond.

2021: No FCC response to Court, so EHT and others filed request to refresh record.

Timeline is hyperlinked to sources.