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Sent: Wednesday, May 13, 2015 6:50 PM

To: Lurie, Peter

Cc: Henderson, Marsha B; Taylor, Mary Ellen

Subject: Cell Phone victory in berkeal EMF Scientist Appeal & Berkeley Cell Phone "Rig..."

Peter Lurie, MD, MPH
FDA Ass't Commissioner
Washington DC

Dear Peter:

Enclosed please find email from UCB professor, Joel Moskowitz, PhD, regarding cell phone warnings approved by the city of Berkeley, California.

It was covered by much media and is the first city in the USA which has approved consumer right to know ordinance on a 9-0 unanimous, , vote.

PPSI has put in an FDA citizens Petition (CP) on the right to know issue (see attached), with its document Number: #FDA-2013-P-1374 on cell phones, in October 4, 2013 and FCC has had public hearings for over 3 years now and has not released their findings.

Can you please find out where my CP is from PPSI at FDA and if there any public hearings planned in the future-where and when ?

Please note: if the CTIA challenges this right to know ordinance-Harvard Law Professor, Lawrence Lessig, has promised to defend the City of Berkeley, pro bono, if CTIA files a lawsuit against this consumer right to know issue.

Thanks for all your past help. have not received any communications from FDA or FCC since my October 2-13 CP. Can you tell me who my contact is and in charge of this department and reviewing my petition, can we be in touch ?

Thanks for all you do for us consumer advocates.

Best-

Fred

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[Sent: 5/13/2015 12:26:23 P.M. Pacific Daylight Time](#)
[Subj: Updates on International EMF Scientist Appeal & Berkeley Cell Phone "Right to Know" Ordinance](#)

This has been a great week for raising awareness in the U.S. and internationally about the health risks from exposure to electromagnetic fields (EMF) including cell phone and other wireless radiation.

International EMF Scientist Appeal

On Monday, the **International EMF Scientist Appeal** was distributed worldwide. Numerous news stories about this petition have been published in multiple languages around the world. The **Appeal web site, EMFscientist.org**, has had visitors from more than 70 countries. Attesting to the global concern about EMF exposure, only 20% of the visits are from the U.S.

The petition has been signed by 198 EMF scientists in 39 countries. All have published peer-reviewed research which altogether amount to more than 2,000 studies and papers (conservative estimate).

Seventy NGOs in 14 countries have signed a statement of support for the Appeal. See the **IEMFA web site** for more information.

The Appeal states that current international EMF guidelines and national regulatory standards are obsolete and inadequate to protect the population and wildlife. The Appeal calls on every world leader to adopt stronger EMF regulatory limits and inform citizens about the health risks of using electrical and wireless technology.

Berkeley Cell Phone "Right to Know" Ordinance

Last night the city of Berkeley adopted a **cell phone "right to know" ordinance** (see below).

Just like Big Tobacco, the wireless industry has had a powerful influence on state and Federal policy and has manufactured confusion for decades about the health risks of their products. In 1977, Berkeley adopted the nation's first clean indoor air law. That law set a precedent emulated by cities across the nation. As a result, today most Americans are protected from secondhand smoke in workplaces and public settings.

Last night, the city of Berkeley set an example for cities across the nation to emulate by adopting a Cell Phone "Right to Know" ordinance.

[Updates about the Berkeley cell phone ordinance can be found on my Electromagnetic Radiation Safety web at http://bit.ly/berkeleycellordinance.](http://bit.ly/berkeleycellordinance) including links to more than 50 news stories that have covered this landmark legislation to date.

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Berkeley Votes to Warn Cell Phone Buyers of Health Risks

If you carry your device close to your body, you may be exceeding radiation exposure limits.

[Josh Harkinson, Mother Jones, May 13, 2015](#)

[The City Council of Berkeley, California last night unanimously voted to require electronics retailers to warn customers about the potential health risks associated with radio-frequency \(RF\) radiation emitted by cell phones, setting itself up to become the first city in the country to implement a cell phone "right to know" law.](#)

["If you carry or use your phone in a pants or shirt pocket or tucked into a bra when the phone is ON and connected to a wireless network, you may exceed the federal guidelines for exposure to RF radiation," the notice, which must be posted in stores that sell cell phones, reads in part. "This potential risk is greater for children. Refer to the instructions in your phone or user manual for information about how to use your phone safely."](#)

[The industry claims the law is unconstitutional "because it would compel wireless retailers to disseminate speech with which they disagree."](#)

[The ordinance is widely expected to face a robust court challenge from the Cellular Telephone Industries Association, the wireless industry's trade group. The law "violates the First Amendment because it would compel wireless retailers to disseminate speech with which they disagree," Gerard Keegan, CITA's senior director of state legislative affairs, said yesterday in a letter to the council members. "The forced speech is misleading and alarmist because it would cause consumers to take away the message that cell phones are dangerous and can cause breast, testicular, or other cancers."](#)

[Cell phones emit non-ionizing radiation in the form of electromagnetic fields \(EMF\) that can penetrate human tissues. Although *ionizing* radiation, the kind used in x-rays, is known to cause cancer, the National Cancer Institute says there is no evidence that non-ionizing radiation increases cancer risk. The American Cancer Society calls the evidence for a cell phone-cancer link "uncertain." The federal Centers for Disease Control maintains that "we do not have the science to link health problems to cell phone use."](#)

[Some long-term epidemiological studies, however, have shown correlations between heavy cell phone use and cancer. In 2011, the World Health Organization's International Agency for Research on Cancer classified radiation from cell phones as "possibly carcinogenic to humans." Although the finding was hardly earth-shattering \(pickled vegetables and coffee also fall into that category\), concerns about the health effects of cell phones continue to mount.](#)

[A Turkish study published earlier this year, for example, found that the closer that the source of cell phone radiation was to breast cancer cells, the greater the damage to the underlying cells. The radiation increased the number of reactive forms of oxygen \(a.k.a. free radicals\), which can damage cells and have been shown to contribute to cancer development.](#)

[The Berkeley vote comes a day after an open letter from 195 scientists from 39 countries raised "serious concerns regarding the ubiquitous and increasing exposure to EMF generated by electric and wireless](#)

devices." The scientists, among them researchers from the University of California-Berkeley, Columbia, and Harvard, called on government agencies to impose "sufficient guidelines to protect the general public, particularly children who are more vulnerable to the effects of EMF."

"This ordinance," says Lawrence Lessig, "is just about giving people the information they need to use their phone" as intended.

Berkeley isn't the first government to ponder a cell phone right-to-know law. According to CBS reporter Elizabeth Hinson, California, Hawaii, New Mexico, Oregon, and Pennsylvania have also considered requiring warnings, and legislation is awaiting a vote in Maine. In 2010, San Francisco passed a ordinance that would have required manufacturers to disclose each phone's Specific Absorption Rate (the amount of RF energy absorbed by the body), but abandoned it a year later after losing the first round of a legal challenge by CITA.

The Berkeley law is more narrowly tailored. "This ordinance is fundamentally different from what San Francisco passed," Harvard law professor Lawrence Lessig, who helped draft the Berkeley law, told the council at last night's meeting. He has offered to defend the measure in court pro bono. "San Francisco's ordinance was directed at trying to get people to use their cell phones less. This ordinance is just about giving people the information they need to use their phone the way it is intended."

Safety tests mandated by the Federal Communications Commission, which regulates radiation levels in communication devices, assume that users will carry cell phones at least a small distance from their bodies in holsters. Storing phones in pockets or bras may expose users to RF heating effects that exceed FCC guidelines. For this reason, the FCC requires phone companies to disclose the minimum distance from the body that users should carry their phones—yet these guidelines are typically buried deep inside phones' menus and sub-menus, or in the fine print of user manuals.

A survey conducted in April by the California Brain Tumor Association found that 70 percent of Berkeley adults did not know about the FCC's minimum distance rule. And 82 percent said they wanted more information about it. (EMF activists have compiled the published separation distances for many cell phones.)

Berkeley has a long history of imposing landmark regulations on powerful industries. In 1977, it became the first American city to ban smoking in restaurants. Last fall, it imposed the nation's first tax on sugary beverages. The cell phone ordinance "is a crack in the wall of denial," says Joel Moskowitz, director of the Center for Family and Community Health at the University of California-Berkeley, who testified in support of the law. "Look at what happened in 1977 with Berkeley's smoking law: Things looked pretty bleak, but that led to a national movement."

Moskowitz spoke to me in the hallway outside the council chambers, where EMF activists wearing "Right to Know" buttons were celebrating their win. Devra Davis, an epidemiologist and the author of *Disconnect: The Truth About Cell Phone Radiation*, asked me to snap a photo of her with Moskowitz on her iPhone 6. She's not the kind of person who winces every time she gets a text, but she handles her phone with caution. "If I carry it on my body it's on airplane mode, like it is now, or it's off," she said. "If it's on, I put in the outer pocket of my fanny pack."

<http://bit.ly/1JdXeOY>

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Other recent news coverage regarding Berkeley's adoption of this ordinance

CBS News, May 13, 2015 (updated)
<http://cbsn.ws/1lyJVbe>

CBS SF Bay Area TV News, May 13, 2015
<http://cbsloc.al/1Je0edY>

The Daily Beast, May 13, 2015
<http://thebea.st/1AXnVAy>

KTVU Fox News, May 12, 2015
<http://bit.ly/1L2kvCu>

NBC Bay Area TV News, May 13, 2015
<http://bit.ly/1FkXewN>

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News Releases: <http://pressroom.prlog.org/jmm716/>
Twitter: [@berkeleyprc](#)