

From: PPSI@aol.com [<mailto:PPSI@aol.com>]
Sent: Wednesday, September 14, 2016 8:48 PM
To: Nambiar, Madhusoodana
Subject: FDA Citizens Petition on Cell Phones, Docket # FDA-2013-P-1374,

**Madhusoodana Nambiar
Regulations Staff
Office of the Center Director
Center for Devices and Radiological Health,
U.S. Food and Drug Administration
Building WO66, 5572
10903 New Hampshire Avenue
Silver Spring, MD 20993**

Dear Mr. Nambiar:

**Please add the article below to our FDA Citizens Petition on Cell Phones,
Docket # FDA-2013-P-1374,**

Also, can you please send copies of all our submissions and additions to the following,

Steve Woods, Division Chief
Food, Drug and Radiation Safety
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Steve is Chief of Radiation and Safety for California, FDA.

Please tell me where our Citizens Petition is on Cell Phone, **Docket # FDA-2013-P-1374**, are there hearings coming up and when will they be ?

Fred

**Frederick S, Mayer, R.Ph. MPH,FACA
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- "Court questions whether Berkeley cell phone law goes too far" 9-13-16 online, SF Chronicle, Bob Egelko

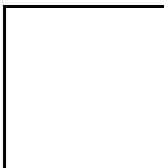
- A federal appeals court questioned during a hearing Tuesday whether the city of Berkeley is unduly discouraging customers from buying cell phones by requiring retailers to warn them about the possible radiation effects of carrying switched-on phones close to their bodies.

- Berkeley's ordinance, challenged by the cell phone industry, requires dealers to notify customers that the federal government sets radiation standards for the phones and that a user may be exposed to levels above those standards by carrying a cell phone in a pocket or tucked into a bra when the device is connected to a wireless network.

U.S. District Judge Edward Chen of San Francisco allowed the law to take effect in January, saying the warning was based on research and guidelines by the Federal Communications Commission.

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[Court questions whether Berkeley cell phone law goes too far](#)

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[But at Tuesday's hearing, members of a three-judge panel of the Ninth U.S. Circuit Court of Appeals in San Francisco asked the city's attorney whether Berkeley had gone beyond the FCC's findings and sent a message implying that cell phones are dangerous.](#)

- ["If we interpret this \(ordinance\) as warning that cell phones are unsafe, I don't see that you have defended it," Judge Michelle Friedland told Berkeley's lawyer, Lawrence Lessig, a Harvard law professor.](#)

- [Judge William Fletcher said that the FCC had included an "enormous" safety margin in its radiation guidelines but that Berkeley appeared to be requiring](#)

retailers to tell their customers that if they absorb radiation above the guideline levels, “it’s unsafe.”

- Lessig replied that the federal agency had labeled its standards as safety measures and required cell phone manufacturers to include them in their manuals with each sale, the same message that Berkeley is conveying to consumers.

- “The FCC has never said that cell phones are safe” in all uses, Lessig said. “We should be allowed to rely on the FCC’s judgment.”

- A lawyer for the industry group CTIA — The Wireless Association argued that the federal agency had indeed concluded that cell phones are safe in all current uses, no matter where they’re held.

- Berkeley’s message, which retailers are required to pass along, is “an alarming point of view ... contrary to science, facts and the FCC’s considered findings that cell phones sold in the United States are safe to use,” attorney Theodore Olson told the court. He said the ordinance was “a burden on speech.”

- Fletcher suggested that Olson was overstating the evidence. A federal report this year “suggests (radio-frequency) radiation is of some concern,” he said, and “we know there may be cancer” from some levels of radiation exposure.

- But Olson said Berkeley was sending the same type of message that San Francisco tried to convey to cell phone customers in a now-withdrawn ordinance.

- San Francisco would have required retailers to tell customers that cell phones could expose them to dangerous, possibly cancer-causing radiation. The city dropped the ordinance in 2013 after the appeals court, in a suit by the same industry group, blocked its enforcement.

- The court did not indicate when it would rule on the Berkeley ordinance.

- Bob Egelko is a San Francisco Chronicle staff writer. Email: begelko@sfchronicle.com Twitter: [@egelko](https://twitter.com/egelko)