

ECSFR

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Our mission is to ensure that environment & communities are safe from harmful electro-magnetic radiation.

To: Dr Brendan Murphy
Chief Medical Officer
Australian Government
Via Email: brendan.murphy@health.gov.au

LEGAL NOTICE: CEASE AND DESIST

Dear Dr Murphy,

This correspondence is based on a genuine concern for the health of the nation.

We refer to your press release of January 2020: <https://www.health.gov.au/news/safety-of-5g-technology>, titled *Safety of 5G Technology*.

In this release and in your capacity as a medical doctor, most senior medically qualified public official in the Nation, Company Director and Board member of the IARC, you make the following statements (highlight added):

1. *I'd like to reassure the community that 5G technology is safe.*
2. *The radio waves to which the general public is exposed from telecommunications are not hazardous to human health.*
3. *There is no evidence telecommunication technologies, such as 5G, cause adverse health impacts.*

The evidence in this letter, is an extract from a wider body of evidence (including from the same sources you rely on being ARPANSA and WHO/IARC), which we believe demonstrate your statements to be false and misleading. Further, in your capacity as a medical doctor, CMO and Board member of the IARC we question if a reasonable person would consider you had a duty of care owed to them, and if you knew or should have known your statements to be misleading.

Your statements may be relied upon by the general public, public officials, investors and company boards and as a consequence, may result in personal harm and economic loss. We believe that

Section 307B of the NSW Crimes Act¹, along with other legislation² could be considered in assessing the consequences of your statement.

In any judgment, the extent to which the offender held a superior position of control, authority or specialist knowledge may be factored in³.

As time is of the essence and given the AUD500 Million⁴ escalation of the 5G roll-out in circumstances where the Nation is in self isolation, we the people, require that within 14 days of today's date you undertake the following action to mitigate risk of harm:

- a. Publicly retract your above-mentioned statement, and
- b. Officially notify all councils (responsible for planning), all schools (responsible for children), all employers (responsible for workers), and all wireless Industry Boards, whom may presently be relying on your expert medical opinion of your retracted statement.
- c. Promote a moratorium on 5G until such time as it is proven to be safe and not hazardous.

If the above action is not taken within the specified time-frame, or you are not able to disprove our evidence presented, we reserve the right to pursue action.

As you seem to be a reasonable man of integrity, we can only assume that you are not adequately informed of the state of the scientific evidence relating to the biological and health effects of 5G technology. We now provide a body of evidence to demonstrate why, in good faith and with genuine concern, we believe your statements to be false and misleading.

In your press release, you state:

¹ http://www5.austlii.edu.au/au/legis/nsw/consol_act/ca190082/s307a.html

² Section 18 of the [Australian Consumer Law](#)
Schedule 2 of the [Competition and Consumer Act 2010](#)
Section 12DA of the *Australian Securities and Investment Commission Act 2001*
[States and territories of Australia](#) each have Fair Trading Legislation
Medical negligence when the misleading information leads to harm, and

³ <https://emergencylaw.wordpress.com/2019/06/07/uk-case-on-liability-of-statutory-authorities/>

⁴ <https://www.rcrwireless.com/20200320/5g/telstra-suspends-job-cuts-accelerates-5g-rollout-face-covid-19-crisis>

“The radio waves to which the general public is exposed from telecommunications are not hazardous to human health.”

The ARPANSA Technical report 182, “Non-ionising Radiation Protection in Australia” states (underline added):

While there are generally no specific occupational NIR exposure regulations in most states or territories, NIR could be treated as a general occupational hazard and protected through Work Health and Safety regulations.

While there are no specific occupational exposure regulations in most states or territories, RF could be treated as a general occupational hazard and protected through Work Health and Safety regulations.

The trend of received inquiries declines significantly as exposure to NIR becomes more hazardous towards optical sources. This clearly shows a higher risk perception where science has not demonstrated a hazard from the exposure and more acceptance or even complacency where effects have been shown⁵.

The ARPANSA Technical report 178, point 12 under special areas of research, acknowledges potential hazards are to be investigated:

“Research on mm waves including investigating the potential hazards and the adequacy of the current limits in the Australian RF standard.”

The World Health Organisation (IARC) classifies electro-magnetic radiation (radio waves) RF as a Class 2B Carcinogen, a potential Carcinogen. You may be aware that there have been recent calls (given NTP and other research) to upgrade that classification to a definite carcinogen.

A potential (or actual) carcinogen is hazardous to human health or it would not have been classified as a potential carcinogen. ARPANSA’s flawed study⁶, which omits a large section of the population, seems to dismiss the WHO classification (based largely on the link between Glioblastoma and mobile phone use).

According to www.Health.Gov.Au, you are the Australian Member on the International Agency for Research on Cancer (IARC) Governing Committee and you represent Australia at the World Health Assembly.

⁵ A matter that requires public education, not exploitation.

⁶ A recent ARPANSA study ignores all cases of brain cancer in people over 60y.o., which distorts the prevalence of Glioblastomas relative to the UK study. *BMJ Open* has posted a response to the ARPANSA/ACEBR paper by Alasdair Philips, he concludes, in part: “*In my opinion, their article unreasonably and misleadingly distorts the literature on modern detailed brain tumor incidence trends. The fact that it passed peer-review raises questions as to the competence and independence of the review process.*”

Being on the IARC governing committee, a reasonable person would consider you were a party to or aware of the Class 2B carcinogenic classification and the recent call for an upgrade to the carcinogenic classification. Yet, in this capacity you assure the Australian people a potential carcinogen is quote “*not hazardous to human health*”, and “*safe*”.

As a member of the IARC, the CMO has assisted in the adoption of workplace health and safety measures for other Class 2B carcinogens to which workers have a high chance of being exposed (e.g. Lead). Why not EMR WHS as well, as this was minuted as an issue in the formation of the original ARPANSA “Standard”? This issue was never followed through (TR182 confirms that), resulting in – almost 2 decades of possible harm that the audit trail demonstrates the Government is well aware of.

In your press release, you state:

“There is no evidence telecommunication technologies, such as 5G, cause adverse health impacts.”

ARPANSA admit that 5G penetrates the skin and eyes, but assert that effects of 5G will be limited to the skin and eyes. As a medical doctor you cannot legitimately accept such a statement as sound science. This is analogous to stating “I spray DDT on the leaf and therefore the effect is only on the leaf”. This is an unscientific statement. 5G uses millimetre waves (mmWaves) and there is an abundance of evidence (in fact quoted by the World Mobile Forum⁷) to show there are therapeutic goods therapies using mm wave (i.e. same frequency bands as 5G) to treat over 30 diseases. Such treatment (small dose and small duration), penetrates the skin so as to be transmitted by the nerves to the brain, releasing chemicals into the blood stream (including endogenous opioids). As someone who has made an admission of the study Opioid use⁸, you may be aware that these therapeutic effects include:

1. Sedative and analgesic effect.
2. Stimulation of the immune system.
3. An anti-inflammatory response.
4. Change cell growth and proliferation rates.

To quote from one⁹ of many papers demonstrating health effects:

⁷ <https://www.mwfai.org>

⁸ <https://www.canberratimes.com.au/story/6595870/top-health-official-brendan-murphy-breaks-with-tradition/>

⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3522782/>

“The resulting “millimeter wave signal” is transmitted through the cutaneous nerve through the dorsal root ganglion into the spinal cord. At the first synapse in the spinal cord, there is a release of endogenous opioids.

The release of endogenous opioids occurs in at least two other spots in the brain. The subsequent release of endogenous opioids into the blood stream spreads these chemicals throughout the body, and certainly is adequate for explaining why pain relief can result from MMW exposures. The involvement of endogenous opioids in MMW therapy is verified by the fact that the beneficial effect of MMW therapy is completely abolished upon the administration of naloxone, a general opioid inhibitor. Opioids are also known to have wide-ranging effects on various systems in the body including the immune system. The transmission of the MMW signal through the cutaneous nerve is verified by the fact that the beneficial effect of MMW therapy is completely abolished by severing the nerve leading to the spinal cord. “

As a doctor, you would know that many treatments that are therapeutic in moderation are harmful in an overdose situation. A constant release of opioids, stimulation of the immune system and cell growth in conjunction with DNA mutations (e.g.Cancer), might see the population significantly harmed.

In addition, like tobacco, 5G mm waves have the potential to create dependency and be addictive by design.

The evidence clearly shows biological and health effects in the following body functions:

1. Skin
2. Nerves
3. Brain
4. Blood
5. Immune system
6. Inflammatory response
7. Cells

Despite the clear evidence of health effects, that is in fact even referenced by the Wireless industry (WMF¹⁰), ARPANSA make the following statement: *“There is not established evidence that low level radio wave exposure from 5G and other wireless telecommunications can affect the immune system or cause any other long term or short term health effects”.*

In TR182 ARPANSA states: *The health effects from RF have been highly researched and the only established effect is heating of tissue.*

¹⁰ http://www.mwfai.org/docs/eng/2019_08_13_MWF_mmWaves.pdf

The Honourable Ed Husic is recorded in Hansard, during the question time with ECSFR, as acknowledging there is controversy in the science and that public servants are required to act in the public interest.

Are you, the Nation's CMO, being misled by ARPANSA, and unwittingly fronting a deceit of the Australian Public?

In a study of Cancer patients, Ken Karipidis of ARPANSA acknowledges: "non-thermal effects" in the comments¹¹. This letter would be too long if we quoted the countless acknowledgements and inconsistencies by ARPANSA over harm, qualified with comments on lack of causality¹², or comments on exposure of workers¹³. However, we can refer you to a submission and supplementary submission to the 5G Parliamentary Inquiry, made by ORSAA that provides evidence bringing into question both ARPANSA's credibility and ARPANSA's ability to draw any conclusions about health effects¹⁴.

Moreover, the Parliamentary Inquiry committee has been referred to case law overseas where the courts have concluded both causality (e.g. RF causes cancer) and that the international body on which ARPANSA relies (and in fact are on the board of), ICNIRP, is conflicted and is an unreliable source.

Let us also look at what ARPANSA says in the minutes of the "Radiation Health and Safety Advisory Council" from 5-6 March 2019. We refer you to Section 7.2 of the minutes and note the people present at the meeting included numerous people from ARPANSA (who gave a presentation on 5G) and we now Quote ARPANSA:

1. *"any effects would therefore be restricted to the skin or eyes".*

-Admission of 'effects' and an admission of their anticipated location. Note that the so called "therapeutic" effects on the nervous and immune systems, cell growth, inflammatory response and opioid release are not revealed by ARPANSA.

2. *"Not a lot of applied research has been conducted yet on the specific technology"*

¹¹ https://www.arpansa.gov.au/sites/default/files/legacy/pubs/rps/rps3_neu_ca01.pdf

¹² Nonetheless, an acknowledgement of foreseeable risk of harm.

¹³ E.g. <https://www.arpansa.gov.au/understanding-radiation/what-is-radiation/non-ionising-radiation/radiofrequency-radiation>

¹⁴

https://www.orsaa.org/uploads/6/7/7/9/67791943/orsaa_reponses_to_queries_raised_at_the_5g_hearing_final.pdf

-Admission: safety and risk cannot be assessed as inadequate research.
You cannot opine on risk given inadequate data to make an opinion. Such lack of research means that if you proceed with this technology, you neither exclude harm nor ensure safety.

3. *"ARPANSA still believes it is important to measure the real radiofrequency levels in the environment. ARPANSA's equipment currently doesn't measure radio waves at the high frequencies to be utilised by 5G".*

-Admission that the radiation levels cannot be ensured to be within safe limits as they cannot be measured and indeed as stated above, safety is assumed, not proven. This admits to a breakdown in quality control.

It is inconceivable that a Government regulator at the above level of (only partial) understanding can make any claims about safety. They could only make statements about risk to the effect that the risk must be better understood given what is at stake – the health of the population (and economic consequences of that) the environment, and therefore the Nation's economic health.

On the matter of risk, there is case law in the supreme court of Queensland, as follows: *"So long as a duty arises whenever the occurrence of the risk is not fanciful, a duty will arise in every single case."*¹⁵

ARPANSA also offer the following advice:

- a. *"If there are any harmful effects, then it's likely that the longer the exposure to RF the greater any risk may be."*
- b. *"However the possibility of harm cannot be completely ruled out."*¹⁶
- c. *"It is recommended that, due to the lack of sufficient data relating to children and their long term use of mobile phones, parents encourage their children to limit their exposure by reducing call time, by making calls where reception is good, by using hands-free devices or speaker options, or by texting."*

ARPANSA acknowledge risk and exposure risk (especially for children). Therefore, how can 4G or 5G be safe? Surely to offer an assurance of safety is misleading? To ignore the foreseeable health risk of children is to set them up for a lifetime of possible harm and health effects.

In your press release, you state:

¹⁵ <https://archive.sclqld.org.au/qjudgment/1995/QCA95-484.pdf>

¹⁶ <https://www.arpansa.gov.au/understanding-radiation/radiation-sources/more-radiation-sources/mobile-phones>

“I’d like to reassure the community that 5G technology is safe.”

Australia’s leading Medical Doctor, assuring us that 5G is safe.

On the contrary: There is a risk of harm, health effects, inadequate research, inability to measure exposures, a lack of understanding on exposure, a failure in risk communication, and a WHO potential carcinogen classification. **Altogether these factors do NOT equal safe!**

The forward of the ARPANSA Standard states:

It is recognised that the Standard does not operate in isolation from the legal framework within Australia.

And goes on to state...

In effect, such laws require relevant parties to continually assess and improve the safety and health impact of their activities.

Moreover, ARPANSA clearly state on their web-site that their advice is for “*information and research purposes only*” and if there are any health concerns the advice of a medical doctor is the authority.

If Australia’s CMO, a medical doctor and health authority, says 5G is safe and not hazardous, it follows that industry have been relieved of the need expressed in the ARPANSA forward, to “*assess and improve the safety and health impact of their activities.*” Does your statement then shift any liability for risk management away from industry and on you?

In saying 5G is safe and not Hazardous, have you abrogated your duty of care as a Medical Doctor? It seems the reason that you are promoting that there is absence of harm is because of the absence of evidence, not because of your understanding of the available evidence. If courts determine someone is harmed by EMR (c.f. McDonald vs Comcare legal precedent¹⁷), based on a statement (such as your own) that is arguably misleading, would there be a case for medical negligence?

You would be aware that military medical boards¹⁸ have determined that EMR causes blood cancer. This alone is not conclusive in relation to microwave radiation of the general population, but it is a red flag – enough to warrant precaution and investigation. By the Government’s own

¹⁷ http://www.next-up.org/pdf/Administrative_Appeals_Tribunal_of_Australia_Dr_Alexander_McDonald_and_Comcare_28_02_2013.pdf

¹⁸ *In relation to the RMA Statement of Principles No. 9 of 2005 in respect of chronic lymphoid leukaemia and death from chronic lymphoid leukaemia, made under subsection 196B(2) of the VEA: DIRECTS the RMA to amend the Statement of Principles concerning chronic lymphoid leukaemia No 9 of 2005 by including factors applying to chronic lymphocytic leukaemia for; Non-Ionising Radiation,*

estimates, blood cancers will cost the Economy around \$500 Billion dollars¹⁹ in the next 15 years, not to mention the untold human suffering. We again point out ARPANSA's admission of the "oversight" in terms of EMR/RF WHS not existing in other than Commonwealth workplaces. Is a \$500 Billion cost to the economy a fraction of the economic impact of that "oversight"?

Dr. Paul Heroux, Professor of Toxicology and Health Effects of Electromagnetism at McGill University Faculty of Medicine summarised 1,724 peer-reviewed studies showing radio-frequency bioeffects produced by non-ionizing radiation.^{20[1]} Effects include: altered enzyme activity, biochemical changes, oxidative stress, pathological cell changes, neuro-behavioural effects, DNA damage, altered gene expression, brain activity changes, and death of cells. It is well established that in the long-run, these adverse biological effects will lead to chronic diseases. **It is these conditions that now comprise the major health burden in Australia rather than acute illness.**

Precaution and appropriate risk management are not just about physical health, but also an issue of economics. Both matters are considered in determining the public benefit and hence the national interest.

Even if Government Policy is focused on corporate over public interest, we must caution that any public official has a Constitutional legal obligation to protect the public and to act in the public interest.

As Australia's CMO, why are you not investigating the cause of the spike in blood cancer and other diseases, in case they are in fact related to the increase in the environmental saturation and over-exposure of the population to EMR?

Medical doctors have stood up publicly against Government Policy on Pandemic Covid19. One can only hope Doctors become equally concerned with the population saturated in non-ionising RF radiation and disease associated with EMR potentially skyrocketing.

In your press release, you state:

¹⁹ <https://www.leukaemia.org.au/about-us/mylifecounts/bctaskforce/>

<https://www.theguardian.com/australia-news/2019/sep/01/blood-cancer-taskforce-seeks-to-tackle-diseases-that-kill-20-australians-a-day>

^{20[1]} The studies reviewed by Heroux were contained in the New Hampshire Commission interim report <http://www.gencourt.state.nh.us/statstudcomm/committees/1474/reports.html>

“To ensure the public remains protected, ARPANSA established limits for EME through a Standard. This Standard is designed to protect people from exposure to radio waves.”

The object of the ARPANS Act²¹, is arguably unconstitutional as health is a plenary power. In addition, RPS3 is not a Standard, but a guideline as is made abundantly clear in the foreword of the “Standard”. A guideline is not enforceable unless adopted by State and Territory legislation. However, it is incumbent upon the States and Territories, when faced with overwhelming evidence, to implement legislation to protect public health. As ARPANSA and ACMA jointly admit, *“The exposure limits in the ARPANSA Standard are only enforceable if they are referenced in other regulatory arrangements.”*²²

This is evident in ARPANSA’s Technical Report 182, where ARPANSA states:

“Regulation of RF exposure is thorough in the area of communications where public exposure occurs, however, only the Commonwealth regulates RF emitting devices at workplaces. This oversight is limited by the specificity of the regulations where the focus is on devices rather than exposure. In this case, there is a clear limitation in being able to address other sources of RF exposure and a risk of regulations becoming outdated based on the technology focus of the oversight. All other jurisdictions (apart from Western Australia) have no specific regulations regarding RF exposure in the workplace.”

The health risk posed by accumulation of radiation from multiple devices and exposure over time is not regulated (or even monitored) by any Commonwealth, State or industry body. There is a generally held erroneous belief that ARPANSA are the authority and ARPANSA is keeping the people and the environment safe.

Apart from Commonwealth employees the Nation’s workers (and school children) are NOT protected by WHS requirements in relation to non-ionising radiation.

Countless parents, children, workers and councils have raised issues of concern over telecommunications powers and specifically 5G mm waves. The Parliamentary Inquiry is evidence of this. Why does the CMO not consider the controversy over the science and urge the Government to place a moratorium on 5G mm waves, and investigate the genuine concern over Health?

²¹ *The object of this Act is to protect the health and safety of people, and to protect the environment, from the harmful effects of radiation.*

²² https://www.arpansa.gov.au/sites/default/files/legacy/pubs/aboutus/collaboration/js_wifi.pdf

Telecommunications powers currently provide for the population to be exposed to a classified pollutant, toxin and potential carcinogen on a continuous basis with no exposure guidelines in place, no WHS in place, and no consent. The ABC would be well aware of the Cancer cluster at their offices at Toowong. ACMA is not a health regulator. The Australian Constitution does not provide the Commonwealth with such powers over Health.

The current situation in Australia is a violation of Human Rights as was tabled to the United Nations Human Rights Council²³ in early 2019.

The deployment of 5G violates over 15 international agreements, treaties and recommendations, including article 7 of the International Covenant on Civil and Political Rights, which derives from the Nuremberg Code of 1947. [25]

It also violates the Declaration of Helsinki of 1964 and its several revisions, as well as other international guidelines that have been translated into national laws in various countries. [26]

The above mentioned UN NGO document provides clear parallels between the Tobacco Industry strategy and the regulatory and research capture by the wireless industry today.

I personally have had relatives die in War, to uphold Australian values and Human Rights. The Nuremberg trials and subsequent Code were supposed to ensure that never again would a population be experimented upon or harmed without consent.

Is it morally and legally (both in Australia and under international law) wrong for medical doctors to condone or support conduct by public officials or to make statements that are on face value misleading and deceptive and forcing foreseeable risk of harm upon a partly non-aware (e.g. misled), and partly aware and non-consenting population?

The UN NGO document referenced earlier states:

PACE believes that 5G, together with previous generations of wireless technology, is an experiment on humanity that constitutes cruel, inhuman and degrading treatment under General Assembly resolution 39/46 of 10 December 1984. [24]

Is it not un-Australian to place children at foreseeable risk of harm or actual harm²⁴ for profit or because it is expensive or inconvenient to do otherwise?

²³ <https://www.radiationresearch.org/wp-content/uploads/2019/03/pace-UN-Human-Rights-Council-5G-statement.pdf>

²⁴ The NSW Department of Education, for example, has been served with medical certificates and other evidence of concern and possible harm by parents and former teachers. They respond by issuing court-orders to force children into foreseeable risk of harm. There are cases of children being hospitalised

Is it not time to pause while we cross-correlate cancer databases and health records with base-stations and work-places and schools? It is time for government to stop ignoring the thousands of independent (non-industry funded) research papers showing harm to understand the risk of harm and how best to manage risk. It is time to also stop the suffering of electro-hypersensitive people and bring them inside the disability support safety-net. It is time for States and Territories to put effective health regulation systems in place and to revisit a genuine National Radiation Protection Standard.

ECSFR are not lawyers or medical doctors and we trust you will conduct your own investigations into the matters raised here, and act in the public interest.

We anticipate your response.

Yours sincerely,

S.J.Toneguzzo

(B.E.Eng., Grad.Dip.Comp.Sc., M.Eng.Sc., CPEng., Fellow IEAUST., NER, APEC, IntPE(Aus)).

Chair, Environment and Community Safe from Radiation Inc.,

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15.04.2020

C.C.

The People of Commonwealth of Australia and of the State of New South Wales

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CROWN – CONSTITUTIONAL DUTY

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FEDERAL PARLIAMENT – 5G Inquiry

Mr Jason Sherd, Committee Secretary

Standing Committee on Communications and the Arts, Department of the House of Representatives

following wi-fi upgrades at school. There are WHS incidents of teachers being harmed. The Sec of the Department of Education in NSW is on notice, there has been no action, the evidence is mounting.

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