

ECSFR

e: info@ecsfr.com.au

w: www.ecsfr.com.au

f: facebook.com/ecsfr



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

OPEN LETTER

The Australian Communications Media Authority (ACMA)

Via e-mail: Telephone.Service.Regulation@acma.gov.au

Dear ACMA,

We are writing to express our concerns about ACMA's response to community complaints made under the *Mobile Phone Base Station Deployment Code* (the Code). As ACMA is aware, there is strong community opposition (Nationally and internationally) to the roll-out of 5G as it has not been adequately safety tested.

ECSFR note that several members (or family) of the recent Parliamentary Inquiry hold shares in the wireless industry and that the final Parliamentary report seemed to gloss over the myriad of risks raised (not only health), and that the terms of reference of the inquiry intentionally excluded National Security.

A multi-Trillion dollar global industry with significant foreign financial backing, foreign manufacturing and media support will exert a sophisticated level of lobbying of elected officials that the general public cannot. Corporations partaking in the wireless industry (in some cases backed by foreign governments) also have the means to fund or influence mercenary science to subtly influence government policy.

As a "regulator", a statutory authority, ACMA have a Constitutional duty of care owed to the public. To this end, we implore ACMA to genuinely assess risk and to engage with all stakeholders in establishing an independent and informed Radiation Protection Standard and viable regulatory risk management framework for wireless technology. Such a framework must consider vulnerability, threat, likelihood, consequence and treatments and not accept evidence without a burden of proof placed on the claimant, and an understanding of who directs the funding and nature of research, and an understanding of who profits from decisions.

The community must look to ACMA to protect people and the environment from the reckless roll-out of untested 5G technology. In the interest of restoring an evidence-based approach to the deployment of telecommunications infrastructure, we request that ACMA take the following steps to ensure a thorough investigation of community complaints:

1. ECSFR request that ACMA provide evidence that ACMA is not conflicted in the performance of its duties given the \$5Billion income to ACMA from the wireless industry (see below).

2. ECSFR request that ACMA confirm the advice of the former CMO is in fact formal medical advice. If ACMA are unable to do so, then ACMA must explain how the advice of ARPANSA and ACEBR take legal precedent over the medical advice provided to members of the general public and how ACMA can legally support the advice of a medical practitioner being ignored by a Carrier.
3. ECSFR request (via ACMA) that the Department of Health supply (and make publicly available) the list of studies that provide the scientific evidence for the former CMO's unqualified claim that "5G is safe" and "not hazardous".
4. ECSFR request (via ACMA) that ARPANSA provide (and make publicly available) the list of scientific studies that support their claim of 5G safety. In particular, regarding ARPANSA's public information sheet titled *Misinformation about Australia's 5G network*, can ARPANSA produce any peer reviewed literature that supports its claims that security screening units at airports, police radar guns and remote sensors used in medicine have been thoroughly tested and found to have no negative impacts on human health and that the brief exposure from such devices is comparable to a 24x7x365 dosage/exposure as would be experienced by the Nation's workers, children and public in general?
5. ECSFR request that ACMA investigate possible conflicts of interest in ICNIRP, ARPANSA, the NHMRC, ACEBR, and the WHO's international EMF Project due to funding links to the wireless industry. This is of critical importance as carriers are relying on the opinions of these bodies to deploy 5G on a massive scale. The papers in Attachment A will assist with ACMA's investigations.

ACMA CONFLICTED?

ACMA is the government authority responsible for ensuring carriers comply with their obligations under the Code. However, ACMA is also responsible for the sale of spectrum licenses to carriers.

Previously, ACMA has raised approximately \$1.17 billion from the sale of 3G spectrum licenses and \$2 billion from the sale of 4G spectrum licenses. In December 2018, ACMA auctioned spectrum licenses in the 3.6 GHz band, raising approximately \$853 million. In early 2021, the ACMA will auction 26 GHz (millimetre wave) band licenses, which will bring the total revenue raised from the sale of spectrum licenses to around **\$5 billion**.

These two functions (enforcing compliance with the Code and selling spectrum licenses) create a perceived, potential or actual conflict of interest. We are concerned that ACMA has failed to identify and manage this conflict of interest which may be causing bias in its decision-making.

LACK OF EVIDENCE.

We understand that ACMA's determination of community complaints in favour of Carriers essentially hinges on the following assumptions:

1. The assumption that community concerns regarding health effects of electromagnetic energy (within the ARPANSA Standard) are "unfounded"; and

2. The assumption that it is reasonable for Telstra to rely on the health advice and guidance of ARPANSA, ICNIRP, the WHO, and the former Chief Medical Officer (CMO) as the basis for disregarding community concerns.

Both of these assumptions are factually and demonstrably incorrect.

There exists genuine scientific controversy surrounding the safety of 5G technology. The apparent majority of scientists actually working and publishing in the field have called for a moratorium on the roll-out of 5G until potential hazards for human health and the environment have been fully evaluated¹.

ACMA and Carriers rely on the unqualified advice of the former CMO that “5G is safe” and “not hazardous”. ECSFR have written to Dr Murphy (separately and on several occasions) seeking proof to substantiate his statements and to date, we have obtained no evidentiary response.

ECSFR’s letter to Dr Murphy quoted WHO and ARPANSA and established (with evidence) that there is: a risk of harm, acknowledged health effects from 5G, inadequate research on 5G, inability to measure 5G exposures, a lack of understanding on exposure to 5G, a failure in risk communication, and a WHO, IARC potential carcinogen classification. ECSFR asserted that altogether these factors do NOT equal safe. On the basis of the evidence available at this time, one might consider Dr Murphy’s statements to be misleading the public and public officials.

Nevertheless, nowhere have ACMA nor the Carriers, nor Dr Murphy stated that his “assurance” to the public is formal medical advice of safety, although it is perhaps implied.

Is ACMA (who may be conflicted) negligent in its duty of care to ignore the advice of ARPANSA in relation to the importance of medical advice and risk of harm and to accept a Carrier’s reliance on the CMO’s (possibly misleading) public assurance without first substantiating that the CMO’s assurances constitute formal medical advice to the Nation and to imply a burden of proof upon the parties making claims of safety?

To our knowledge, there are no independent long-term studies demonstrating the safety of prolonged exposure to the millimeter frequencies and phased array beam forming intended to be used for 5G. The absence of studies does not constitute evidence of absence of effects, or proof of safety. To suggest otherwise is unscientific and a reckless approach to public and environmental health.

We refer ACMA to ORSAA’s recent paper titled *Serious Safety Concerns about 5G Wireless Deployment in Australia and New Zealand*² wherein it is stated: “5G is untested for safety on humans and other species and the limited existing evidence raises red flags.” Of the literature on effects of millimetre waves in their database, ORSAA found that 77.9% of papers showed significant biological effects.

¹ The *International EMF Scientist Appeal* has been signed by 250 scientists who between them have published over 2000 papers and letters on non-ionizing electromagnetic fields in professional journals.

²

https://www.researchgate.net/publication/342085409_Serious_Safety_Concerns_about_5G_Wireless_Deployment_in_Australia_and_New_Zealand

PRECAUTIONARY APPROACH

The Code was developed to apply a precautionary approach to the design, siting and operation of mobile phone base stations and to improve carriers' consultation processes with Councils and communities living near proposed infrastructure. Yet, the community and the Council are being denied genuine participation in the decision-making process and the Precautionary Principle is being ignored.

In essence, the precautionary principle is such that if threats of damage to the health of the public or environment are identified by whatever means, lack of full scientific certainty should not be used as a reason for postponing measures to address or reduce such risks as they arise.

The Code (and various State and Federal Legislation) requires that once Carriers have been made aware of risks of harm to health and environment, they will have a duty to apply the precautionary principle when making decisions.

Carriers are abundantly aware of risk of harm: The risk is legally required to be disclosed to shareholders under corporation's law as a risk that has material consequences if realised. Insurance actuaries are also abundantly aware of the risk of harm, the consequences and likelihood of the risk being realised. If a risk being realized is inevitable and with catastrophic consequences, it is considered that to offer insurance would be detrimental to the insurance industry: Such is the written advice of several of the world's largest underwriters.

ECSFR would welcome a conversation being had around genuine mitigating strategies as the current approach of "avoidance through denial" is neither sustainable nor in the national interests.

We anticipate your informed and evidence based 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.,
info@ECSFR.com.au

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C.C.

The People of Commonwealth of Australia

www.ECSFR.com.au

CROWN – CONSTITUTIONAL DUTY

His Excellency General the Honourable David Hurley AC DSC (Retd)

steve.murtagh@gg.gov.au

paul.singer@gg.gov.au

Media and Government (Federal, State, Local).

'info@acma.gov.au'; 'shane.mcauliffe@acma.gov.au'; 'paulb@echo.net.au'; 'seannic@protonmail.com';
'Minister.Hunt@health.gov.au'; 'Minister.Colbeck@health.gov.au'; 'Minister.Coulton@health.gov.au';
'Caroline.Edwards@health.gov.au'; 'paul.kelly@anu.edu.au'; 'news@health.gov.au'; 'Nick.Kwek@sbs.com.au'; Sean
Nicholls <Nicholls.Sean@abc.net.au>; 'brendan.murphy@health.gov.au'; 'niru@ahpra.gov.au'; 'Cr Michael Lyon';
'sarah.ndiaye@cr.byron.nsw.gov.au'; 'secretary@det.nsw.edu.au'; 'Deputy Secretary; Corporate Services';
'info@ecsfr.com.au'; 'carl-magnus.larsson@arpansa.gov.au'; 'info@arpansa.gov.au'; 'media@arpansa.gov.au'

Attachment A

Adlkofer, F., (2018) *How the Mobile Communication Industry Deals with Science as Illustrated by ICNIRP versus NTP*, Pandora Foundation for independent research https://stiftung-pandora.eu/wp-content/uploads/2018/11/Pandora_Adlkofer_Dealing-with-NTP-Nancy-Draft_181026_en.pdf

Buchner, K & Rivasi, M., *The International Commission on Non-Ionizing Radiation Protection: Conflicts of interest, corporate capture and the push for 5G (2020)* <https://klaus-buchner.eu/wp-content/uploads/2020/06/ICNIRP-report-FINAL-19-JUNE-2020.pdf>

Hardell, L., (2017) *World Health Organisation, Radiofrequency radiation and health – a hard nut to crack* <https://spandidos-publications.com/10.3892/ijo.2017.4046://www.;>
<https://microwavenews.com/CT.html>

Leszczynski, D., *Is ICNIRP reliable enough to dictate meaning of science to the governmental risk regulators?* <https://betweenrockandhardplace.wordpress.com/2016/04/08/is-icnirp-reliable-enough-to-dictate-meaning-of-science-to-the-governmental-risk-regulators/> ;

Leszczynski, D., *Brief Opinion on 5G and Health*
<https://betweenrockandhardplace.wordpress.com/2019/05/31/leszczynski-brief-opinion-on-5g-and-health/> ;

Maisch, D., *Conflict of Interest & Bias in Health Advisory Committees: A case study of the WHO's Electromagnetic Field (EMF) Task Group*, J. Aust. Coll. Nutr. & Env. Med. Vol. 25 (April 2006) pages 15-17
<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.540.6714&rep=rep1&type=pdf>

Pockett, S., (2019) *Conflicts of Interest and Misleading Statements in Official Reports about the Health Consequences of Radiofrequency Radiation and Some New Measurements of Exposure Levels* <https://www.5gexposed.com/wp-content/uploads/2019/07/magnetochemistry-05-00031-3.pdf>

Starkey, S., *Official Advice on the Safety of Radiofrequency radiation, risk assessment and adverse effects*, 5 November 2018 PHIRE Meeting, London, slide 24 https://cdn.website-editor.net/2479f24c54de4c7598d60987e3d81157/files/uploaded/S._Starkey_Presentation_5th_November_2018.pdf

Critic of ICNIRP (International Commission of Non-Ionizing Radiation Protection) & WHO International EMF Project <http://www.chronicexposure.org/limitsICNIRP.html> ;

ORSAA follow up documents to the 5G Parliamentary Hearing.

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