Cell Phone Carriers & the FCC: Cozy & Colluding

An Industry Insider Speaks Out

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The Federal Communications Commission (FCC) has never levied a fine against a cell phone company for exceeding its RF exposure limits from a base station antenna.

That's not because all of the 300,000 cell sites in the U.S. comply with the FCC rules, according to an Industry Insider with years of training and experience measuring RF radiation. He told us that he has found RF levels higher than those allowed under the FCC rules at sites across the country. The real reason there have been no fines, he said, is "because there's collusion between the companies and the government." The insider, an RF engineer, calls himself "EMF Expert"; he asked that his real name not be used.

"The carriers and the FCC have an extremely cozy relationship," said the engineer. "Whenever there's a problem, someone in the FCC's RF safety office warns the carrier and the company then puts the 'fire' out."

Over the last two years, the RF engineer and the EMR Policy Institute, based in Marshfield, VT, have identified more than 100 rooftops in 23 states where the FCC's limits have been exceeded. Back in December 2011, the Institute described the situation to the chairman of the FCC, Julius Genachowksi, and the other commissioners. These findings are "shocking," the leaders of the Institute wrote, and point to "a systematic pattern of non-compliance" by the country's largest providers of cell phone service. Nothing much has changed since then.

When the radiation limits are exceeded, it's most likely close to the transmitting antenna. The strength of RF signals, like all types of electromagnetic radiation, decreases quickly with distance from the source (the inverse square law). For most freestanding cell antenna towers, the "hot" zone —where RF levels are higher than the

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exposure limits— is usually inaccessible, but for roof-mounted antennas, public access is not uncommon. The FCC requires that such hot zones be roped off and warning signs posted. Most cell sites are composed of multiple antennas, with some pointing in different directions. Different carriers will often place their antennas on the same site, a process called colocation.

The people most at risk of RF overexposure are those working on rooftops close to the cell phone antennas. As the EMR Policy Institute wrote to the FCC commissioners:

> Workers such as roofers, window washers, painters, HV/AC technicians, building engineers and superintendents, firefighters, wireless industry workers, and others have been and continue to be concerned that their safety and health have been and continue to be compromised by exposure to RF radiation in excess of lawful limits."

Enforcement Is a "Total Illusion"

"Enforcement at the FCC is a total illusion," Deb Carney, a director of the Institute, told *Microwave News.* "The public is not being protected." Carney is an attorney practicing in Golden, CO.

More than 100 instances of antennas exceeding the FCC limits have been reported to Michele Ellison, the head of the FCC's Enforcement Bureau, according to Janet Newton, the Institute's president. "To the best of my knowledge, the FCC has not taken any enforcement action," Newton said, "Neither Ms. Ellison nor anyone from her office has ever even acknowledged our complaints."

Ellison declined to comment, referring questions to Mark Wigfield in the FCC media office. "We routinely investigate RF complaints," Wigfield told us, "We take action where warranted by the facts and the commission's RF standards." When asked about the 100 violations reported by the EMR Policy Institute, Wigfield did not respond.

(In fact, in the last dozen years, the FCC has taken few enforcement actions for any type of RF source, including the much more powerful antennas broadcasting radio and TV signals, as shown in this list compiled by the FCC.)

The Industry Insider estimates that about 10% of all cell sites are on rooftops (the fraction differs from one carrier to another). And of that 10%, about 10% are out of compliance. This works out to about 1% of all cell sites being non-compliant. "It's a small percentage," he said, "but when you consider that there are some 300,000 sites out there, it is a significant number."

Asked why he was blowing the whistle on the cell phone industry for which he has long worked, the Insider replied: "Nobody is enforcing the law. You can argue about thermal and non-thermal effects until the cows come home, but these violations are not lawful and the rules should be enforced."

"Without enforcement, there can be no compliance," he said.

The Insider does not see the package of rules and proposals issued by the FCC last week as sufficient to deal with the lack of compliance on rooftops. “The section on mitigation is too ambiguous,” he said. “The FCC appears to be only interested in making changes that do not add new costs for the carriers, he added, but that will not solve the problem.”

“They can fix this if they want to, it’s not that hard,” said the Insider. “The situation is completely different in Canada and Europe. They take this seriously.”

Noel Gail’s Roof in Queens New York

The EMR Policy Institute points to what happened on a rooftop owned by Mr. Noel Gail as an example of the cozy relationship between the FCC and the cell phone carriers. The story begins about three years ago, in March 2010, when Gail wanted to repair the roof on his two-storey building in Queens Village, New York City. On seeing cell phone antennas on the roof of an adjoining building, he called the toll-free number he spotted on a warning sign posted by AT&T. “I called that 800 number a few times, but it was a dead end,” he told *Microwave News* not long ago.



The Roofop Next to Noel Gail’s in Queens Village, NY

Gail then started calling the FCC. “After six or seven calls, I left a message on an FCC answering machine saying that I was going to call a local TV station and my attorney,” he said. "But I was bluffing, I did not know any reporters and I did not have a lawyer. I just said that to get their attention.” The bluff worked. Two months later, on May 11, a five-man team from the FCC made a site visit. They found the RF levels on Gail's roof near an antenna operated by Metro PCS, which was also located on his neighbor’s roof, to exceed the FCC limit by 60%.

On November 10, 2010, the FCC issued Metro PCS a formal Notice of Violation. This is the *only* NOV that the FCC has *ever* issued for an RF violation from a cell phone antenna. The AT&T antennas were found to comply with the RF rules and the company was not cited by the FCC.

Even though AT&T had not responded to Gail”s calls, it moved quickly once alerted by the FCC. *Microwave News* has learned that soon after Gail left that message on the FCC's voice mail about contacting the media, word reached Donald Campbell in the FCC

Office of Engineering and Technology. The EMR Policy Institute calls Campbell, "The Gatekeeper," the one who decides who gets the agency's attention. Gail must have passed the test. Campbell sent a message to AT&T, and the company sprung into action as the antennas on Gail's roof rose to a priority issue.

We asked Michele Ellison, the FCC enforcement chief whether anyone from the FCC had ever gone back to Mr. Gail's roof to check whether Metro PCS was now in compliance with the FCC rules. Ellison did not respond, nor did Mark Wigfield of the FCC media office.

The FCC did not fine Metro PCS for exceeding the commission's RF radiation limits. No one has explained why.

The EMR Policy Institute returned to Gail's roof with an experienced RF engineer about a year after the FCC issued the notice of violation. They found that the RF levels near the Metro PCS antenna were close to three times the FCC limit and the RF levels near the AT&T antenna were more than five times the allowable limit.

"I am not an engineer and I can't prove it," Gail told us, "but my feeling is that AT&T lowered the power on the antennas before the FCC arrived and then boosted it after they left."

Evie Hantzopoulos, the executive director of a New York City non-profit and a sometime cell antenna activist, tells a similar story about dealing with the FCC over a rooftop antenna some years ago. "T-Mobile constructed antennas directly facing the adjacent roof of a property next door. You could go up to the roof and walk right up to them," she told us. "It took calls, emails, letters and more to get the FCC to inspect the site. Once a date was set, T-Mobile was notified. Then, two days before the visit, the antennas were taken down. That was the end of the story, even though we had pictures of the violation."

"The FCC's approach to enforcement is so laissez-faire, it amounts to incompetence," Hantzopoulos said.

No Help from the Carriers' Toll-Free Help Lines

The EMR Policy Institute has posted two videos that describe the rooftop RF problem on YouTube ("Wireless Safety Failure Part I" and "Wireless Safety Failure Part II"). Each is about 15 minutes long; the second includes footage filmed on Gail's rooftop.

Some of the most striking parts of the videos are what workers are told when they call the toll-free numbers posted on warning signs near cell phone antennas. Most of the operators responding to the calls appear to be ill prepared to answer the workers' questions. All too often they are quick to reassure the workers that there is nothing for them to worry about.

Richard Tell, a consultant with extensive RF experience, was not surprised by what he heard on the videos. "It happens over and over again," he said in interview from his office in Colville, WA. "The

telephone operators don't know diddly-squat about the RF problem."

In a December 11, 2001 letter to the FCC's Ellison, the Policy Institute urged the Enforcement Bureau to "investigate the type and veracity of the information provided to those who called."

Last July, David Dombrowski of the FCC's Enforcement Bureau in Philadelphia wrote to Janet Newton of the Policy Institute asking about operator responses to the toll-free numbers. She then sent him recordings, which the Institute had made from calls to AT&T, Metro PCS, Sprint, T-Mobile and Verizon. "That was the last I heard from him," Newton said. When contacted by *Microwave News,* Dombrowski wrote back that he could not comment because he was not authorized to speak to the media.

The Institute's Deb Carney wants the FCC to get tough with the industry. "The problem is that the FCC is colluding with the cell phone carriers and the result is lax enforcement," she said.

August 21, 2013

See also this item on potential liability from radiation exposures from cell sites, published today in the *Claims Journal.*

October 3, 2014

Today's *Wall Street Journal* has an article on the cell antenna radiation problem: "Cell Phone Boom Spurs Antenna-Safety Worries," with a picture of Marvin Wessel, the RF engineer who was the "EMF Expert" for the *Microwave News* story above. "It's like having a speed limit and no police," Wessel told the *Journal* referring to the FCC's lack of enforcement of its rules.

November 11, 2014

Some local TV stations are highlighting radiation exposures from cell towers on rooftops —probably prompted by last month's article in the *Wall Street Journal.* Here's one from New York City and another from Phoenix, Arizona.

In 2010, Louis Slesin, the editor of *Microwave News*, published an article on the risks of working on rooftops near active RF antennas in *SafetyRep*, a newsletter of the New York Committee for Occupational Safety & Health (NYCOSH). A copy can be downloaded here, the RF article begins on p.3.

FCC, cell towers, RF, EMR Policy Institute, Janet Newton, Deb Carney, Michele Ellison, Mark Wigfield, Noel Gail, Richard Tell, Marvin Wessel,

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