

Judge largely upholds Berkeley cellphone ordinance

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A federal judge has mostly upheld a new Berkeley ordinance that requires cellphone sellers to warn customers about keeping their cellphones too close to their bodies.

U.S. District Judge Edward Chen on Monday rejected the wireless industry's request for a preliminary injunction against the entire ordinance. CTIA-The Wireless Association said the ordinance was preempted by federal law and violated the First Amendment.

Chen said that except for one part, the law was consistent with Federal Communications Commission statements and the legitimate government interests of consumer awareness and public safety. "There is a reasonable scientific basis to believe that (radio-frequency) radiation at some levels can and do present health risks," he said.

The city ordinance requires cellphone retailers to tell customers that they could be exposed to radio-frequency radiation at levels exceeding federal guidelines if they keep their cellphones in their pants, shirt pockets or bras while the devices are switched on and connected to a wireless network.

Chen blocked the law from going into effect until the city removed a line that said the potential risk is greater for children. That contention is a matter of scientific debate, Chen said.

Theodore Olson, an attorney for the wireless association, said the group

was pleased that the judge had blocked enforcement of the ordinance as drafted and was confident that the entire ordinance would ultimately be struck down.

"As the federal government has repeatedly recognized, the overwhelming weight of scientific evidence refutes Berkeley's ill-informed and misleading mandatory warnings about cellphones," he said.

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