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June 26, 2018

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street Southwest
Washington, DC 20554

Dear Chairman Pai:

I am writing to ask what steps, if any, the Federal Communication Commission (FCC) has taken to ensure that cell site simulators used by law enforcement agencies do not interfere with 9-1-1 emergency mobile services and the mobile communications of innocent Americans.

Cell site simulators, which are more commonly described in the media as “Stingrays” or “IMSI catchers,” mimic mobile telephone towers to locate and identify nearby mobile devices, and can covertly intercept calls and other communications from those devices. Cell site simulators have become standard tools for federal, state, and local law enforcement, which deploy them for a broad range of purposes. Because cell site simulators operate in licensed mobile spectrum, they are subject to oversight and regulation by the FCC.

In addition to the purportedly stringent testing requirements imposed on cell site simulators by the FCC, federal law enforcement agencies have repeatedly represented to federal courts that these devices cause minimal interference. It is increasingly clear, however, that those agencies take no active steps to establish the veracity of their claims. For instance, the Department of Homeland Security (DHS) recently confirmed to me that they neither undertake nor fund independent interference testing of their cell site simulators. The Department of Justice (DOJ) has provided me with information about this topic, but limited its public disclosure by marking it Law Enforcement Sensitive. I’ve included DOJ’s response with this letter. The lack of serious testing by law enforcement in this country stands in stark contrast to the practices of our Canadian law enforcement allies— who have tested this technology and determined that cell site simulators do cause significant interference to emergency services—and to allegations from civil liberties groups, who have long noted the considerable potential for interference.

The FCC has an obligation to ensure that surveillance technology which it certifies does not interfere with emergency services or the mobile communications of innocent Americans who are in the same neighborhood where law enforcement is using a cell site simulator. Given the total failure by DHS to ensure that the surveillance technology it uses does not interfere with the communications of innocent Americans, and the refusal of the DOJ to provide public, candid

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answers about its own testing or lack thereof, the FCC has an even greater duty to closely supervise this surveillance technology and its potential collateral impact on public safety-related services, such as 9-1-1.

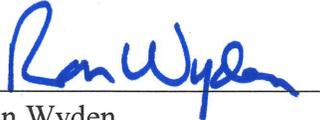
As such, please provide answers to the following questions no later than July 13, 2018:

1. What, if any, testing does the FCC conduct or require to ensure that cell site simulators certified by the FCC and that are used by state and local law enforcement agencies do not disrupt communications with 9-1-1 or other emergency services? Please provide a detailed explanation of the results of any testing conducted of cell site simulators certified by the FCC. If the Commission does not conduct or require testing, please explain why the Commission does not believe that testing for interference with 9-1-1 is necessary.
2. As part of the certification process, does the FCC test whether cell site simulators might disrupt non-emergency cellular telephone service or wireless internet access, including both the mobile devices targeted for surveillance and other nearby devices used by innocent bystanders? If so, please describe the FCC's findings. If not, why not?
3. What, if any, testing does the FCC conduct or require to assess whether or how cell site simulators affect the functionality of cellular telephone handsets, including any effects on the power consumption and broadcast strength of those handsets? Please provide a detailed explanation of the results of any such testing conducted of cell site simulators certified by the FCC. If the Commission does not conduct or require testing, please explain why the Commission does not believe that such testing is necessary.
4. The FCC is required by law to determine that certification of a device is in the service of the public interest, convenience, and necessity. If an FCC testing certification body determines that a device complies with the technical standards for certification, does the Commission then assume that certification would serve the public interest, convenience, and necessity? If so, why? Please describe how, if at all, the FCC considers the disruption of cellular telephone service, wireless internet access, or any other applications when deciding if certifying a cell site simulator serves the public interest.
5. People who are deaf, hard of hearing, or speech disabled rely on Real Time Texting (RTT) devices to communicate. RTT devices are required to be capable of transmitting and receiving RTT communications to and from any 9-1-1 public safety answering point in the United States.
 - a. Please describe any testing the FCC has done on cell site simulators to ensure that they do not impede the transmission of RTT.
 - b. Please further describe any specific efforts the FCC has undertaken to ensure that cell site simulators do not disrupt the ability of people with disabilities to communicate with emergency services.
 - c. If independent testing of an FCC-certified cell site simulator were to reveal that the cell site simulator in fact disrupts RTT communications with 9-1-1, would the FCC revoke the certification of that device?
6. The FCC has required mobile wireless service providers and device manufacturers to offer handsets that do not cause interference with hearing aids and cochlear implants. Please describe what efforts, if any, the FCC has undertaken to ensure that cell site simulators do not interfere with hearing aids and cochlear implant compatible handsets.

7. Wireless Emergency Alert-enabled mobile devices must meet certain conditions under FCC regulations, including the ability to monitor for alert messages and present the alert content. Please describe any efforts that the FCC has undertaken to ensure that cell site simulators do not disrupt transmissions of Wireless Emergency Alert-enabled mobile devices.

If you have any questions about this request, please contact Chris Soghoian in my office.

Sincerely,



Ron Wyden
United States Senator