

# FCC to Weigh in on Cell Phone Blocking in Wake of New BART Policy

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In response to [yesterday's announcement](#) that BART, the San Francisco area transit authority, modified its cell phone blocking policy, FCC Chairman Julius Genachowski announced that the FCC would soon be taking action as well. Genachowski pledged an "open, public process" to provide guidance on lawful wireless service blocking.

If opened, this will be the first formal proceeding the FCC has undertaken to address lawful blocking of wireless signals. In the past, the FCC staunchly denied any requests to sanction wireless call blocking.

**UPDATE:** This [SF Chronicle report](#) states that the FCC commented on BART's policy before it was adopted. According to the report, the FCC suggested language recognizing that an interruption poses risks to public safety and that the benefits of a shut down should outweigh the risks to public safety. While a BART official correctly notes that this is not an endorsement of the policy, it signals an openness (in limited circumstances) to a shut down that the FCC has not shown before.

**Background.** In August, BART garnered headlines and much criticism when it [temporarily shut down wireless services](#) in four of its transit stations to quell protests over a police shooting. Many, including the FCC, criticized BART for actions of dubious legality. At the time, an FCC spokesman stated that the [Enforcement Bureau would investigate](#) the shut down. The results of that investigation were not publicly announced.

**New, More Restrictive BART Policy.** Over the past several months, BART has re-examined its cell phone interruption policy. Yesterday, BART adopted a [new policy](#) restricting such interruptions. Under the new policy, BART will shut down wireless service in its system only in extraordinary circumstances. Specifically, the policy limits interruptions only to the following instances:

when it determines that there is strong evidence of imminent unlawful activity that threatens the safety of District passengers, employees and other members of the public, the destruction of District property, or the substantial disruption of public transit services; that the interruption will substantially reduce the likelihood of such unlawful activity; that such interruption is essential to protect the safety of District passengers, employees and other members of the public, to protect District property or to avoid substantial disruption of public transit services; and that such interruption is narrowly tailored to those areas and time periods necessary to protect against the unlawful activity.

**FCC Proceeding.** FCC Chairman quickly [released a statement](#) praising the agency's more restrictive policy. He asserted, however, that preserving the openness of wireless networks is paramount and stating that there must be a "high substantive and procedural bar" to any permissible interruption of service. Genachowski stated that the FCC "will soon announce an open, public process to provide

guidance on these issues."

In the past, the FCC has staunchly denied any requests to sanction wireless service blocking. For example, in 2009, the FCC [denied CellAntenna's request for temporary authority](#) to provide a demonstration of its cell phone blocking technology in a state prison. It also has proposed [substantial fines against companies manufacturing wireless jamming devices](#). Perhaps this BART situation will be viewed differently, given that it does not involve jamming, but rather the decision by a property owner to turn off equipment it had installed.