On Monday, EFF, Public Knowledge, and the Center for Democracy and Technology asked the FCC to formally rule that the federal government will not—and that state and local governments cannot—interrupt wireless services as a matter of policy.

In the wake of the infamous Bay Area Transit Authority (BART) shutdown of cell phone service during a protest in August of last year, the FCC opened a notice of inquiry on the issue and asked for public comment last month. Since the incident in August, BART has issued its own cell phone shutdown policy, which EFF has criticized as still allowing shutdowns in situations clearly protected by the First Amendment.

As EFF said at the time, the actions of the BART authorities in August were more akin to former Egyptian President Hosni Mubarak than that of a government mandated by the Constitution to respect the free speech of its citizens. The First Amendment clearly prevents the government from censoring communications in only the most narrow of categories: by demonstrating "a direct, immediate, and irreparable harm to the Nation or its people." Absent that, *any* wireless service interruption will inevitably restrain many innocent Americans ability to communicate and endanger free expression.

In addition, the federal Communications Act forbids both network interruptions by government and carriers or other private parties from interrupting or interfering with wireless service. And a substantial line of cases in California have held that state and local governments cannot disconnect telecommunications services "based solely upon the suspicion of disfavored or even illegal activity."

It's clear that a shutdown of communications is antithetical to the laws this country is built on. In our petition, we detail several situations—from countries like Egypt to Panama to Syria—of foreign governments using its power to shutdown communications services in a variety of situations. As we argue to the FCC, if the federal or state government in the US engages in the same type of practices, they "would be emulating—and providing a dangerously legitimating example for—authoritarian regimes across the world that have engaged in or would like to engage in wireless service interruptions to stifle free expression."

It's important to note that shutdowns of wireless service negatively affect both the public's First Amendment rights *and* public safety. Individuals communicate using wireless services for a host of reasons—whether to make dinner plans with friend or family, contact emergency services, organize a protest, or use the Internet to check the news. BART argued at the time that they shutdown wireless service to protect passengers safety. Yet the cell phone shutdown violated not only the free speech of the protesters, but also that of the passengers in the train who also couldn't use their phones to call their families. Safety and free speech are not mutually exclusive;

in contrast, they are intertwined, and by shutting down cell phone service in August, BART threatened both.

Hopefully the FCC will respond promptly to comments by the Electronic Frontier Foundation and rule once and for all that neither the government nor private wireless services can shut down wireless service once as a matter of policy.