

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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UNITED STATES TELECOM ASSOCIATION)
et al.,)
)
<i>Petitioners,</i>)
)
v.)
)
FEDERAL COMMUNICATIONS COMMISSION)
and UNITED STATES OF AMERICA)
)
<i>Respondents.</i>)
<hr/>)

Case No. 15-1063
(and consolidated cases)

MOTION FOR LEAVE TO INTERVENE

Pursuant to 28 U.S.C. § 2348, Rule 15(d) of the Federal Rules of Appellate Procedure, and Rule 15(b) of the D.C. Circuit Rules, the Center for Democracy & Technology (“CDT”) hereby moves for leave to intervene in the above-captioned proceeding and consolidated cases¹ in support of Respondents the Federal Communications Commission (“FCC”) and the United States of America.

¹ See D.C. Circuit Rule 15(b) (“A motion to intervene in a case before this court concerning direct review of an agency action will be deemed a motion to intervene in all cases before this court involving the same agency action or order, including later filed cases . . .”).

Petitioners seek review of the final order of the FCC captioned *Protecting and Promoting an Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 80 Fed. Reg. 19,737 (Apr. 13, 2015) (“*Order*”). In the *Order*, the FCC appropriately reclassified broadband Internet access service as a telecommunications service under Title II of the Communications Act of 1934 (“the Act”). Relying on the FCC’s authority under Titles II and III of the Act, and its authority under Section 706 of the Telecommunications Act,² the *Order* adopts rules to prevent blocking, throttling, and paid prioritization of Internet traffic, as well as other practices by broadband providers that could threaten an open Internet. The *Order* also takes steps to apply core statutory privacy protections under Title II of the Act to broadband Internet access service. In so doing, the *Order* ensures that the Internet remains a vibrant platform for free expression and innovation, and protects the privacy of broadband subscribers when using that platform.

CDT is a non-profit public interest organization focused on protecting the privacy of Internet users and preserving the Internet as a tool for free expression, innovation, and civic participation. CDT actively participated in the *Protecting and Promoting the Open Internet* proceeding and continues to participate in efforts to tailor statutory privacy protections under Title II of

² 47 U.S.C. § 1302(a).

the Act to broadband Internet access service. CDT relies on an open Internet to communicate with lawmakers, stakeholders, and the public in furtherance of its mission to promote consumer privacy, free expression, and innovation on the Internet. CDT's mission and interests will be substantially affected by this Court's review of the *Order*. Therefore, CDT is an interested party under 28 U.S.C. § 2348 and may intervene in this proceeding.³

CDT respectfully requests that this Court grant its motion for leave to intervene in support of the FCC and the United States of America.

Respectfully submitted,

/s/ Erik Stallman

Erik Stallman

General Counsel

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Dated May 13, 2015

³ See 28 U.S.C. § 2348 (“[A]ny party in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended, may appear as parties thereto of their own motion and as of right, and be represented by counsel in any proceeding to review the order.”).

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	v.)	Case No. 15-1063
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)	
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CERTIFICATE AS TO PARTIES

Pursuant to D.C. Circuit Rule 27(a)(4) and D.C. Circuit Rule 28(a)(1)(A), the Center for Democracy & Technology hereby certifies the following:

In Case No. 15-1063 and consolidated cases, the Petitioners are United States Telecom Association, Alamo Broadband Inc., National Cable & Telecommunications Association, CTIA—The Wireless Association, AT&T Inc., American Cable Association, Wireless Internet Service Provider Association, and Daniel Berninger. The Respondents are the Federal Communications Commission and the United States of America. Movants

to intervene in support of Respondents include Cogent Communications, Inc., COMPTEL, DISH Network Corporation, Etsy, Inc., Kickstarter, Inc., Level 3 Communications, LLC, Meetup, Inc., the National Association of Regulatory Utility Commissioners, the National Association of State Utility Consumer Advocates, Netflix, Inc., Public Knowledge, Tumblr, Inc., Union Square Ventures, LLC, and Vimeo, LLC. The Independent Telephone and Telecommunications Alliance has moved to intervene in support of Petitioner CenturyLink. No amici have appeared before the Court at this time. The Center for Democracy & Technology seeks leave to appear in this matter as an intervenor in support of Respondents.

Respectfully submitted,

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 26.1, the Center for Democracy & Technology submits the following statement:

The Center for Democracy & Technology (“CDT”) is a non-profit, non-stock corporation organized under the laws of the District of Columbia. CDT has no parent corporation, nor is there any publicly held corporation that owns stock or other interest in CDT.

Respectfully submitted,

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Dated May 13, 2015

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2015, I caused a true and correct copy of the foregoing Motion for Leave to Intervene to be filed electronically with the Clerk of the Court using the Case Management and Electronic Case Files (“CM/ECF”) system for the D.C. Circuit.

I certify further that I have directed that copies of the foregoing Motion to Intervene be served by electronic service via CM/ECF or by first-class mail to the following persons:

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