

Order, WC Docket No. 17-108, FCC No. 17-166 (rel. Jan. 4, 2018) (“Order”).¹ This motion is unopposed.²

The Order returns broadband Internet access service (“BIAS”) and mobile BIAS to their traditional classifications as an “information service” and “private mobile service” under the Telecommunications Act, respectively. *See* Order ¶¶ 1–2. In doing so, the Order reverses the Commission’s 2015 *Title II Order*, which had overturned decades of FCC precedent by reclassifying BIAS as a “telecommunications service” and reclassifying mobile BIAS as a “commercial mobile service,” thus subjecting providers of these services to regulation as common carriers.³ The Order also repeals the substantive rules imposed on BIAS providers by the *Title II Order*. *See* Order ¶ 239. In addition, the Order expressly preempts any measures adopted by states and localities that would effectively impose restrictions the Order repeals or refrains from imposing, or that would impose

¹ Attached to this Motion is the Corporate Disclosure Statement of CTIA as required by Rule 26.1 of the Federal Rules of Appellate Procedure.

² Pursuant to Rule 27-1 of the Circuit Rules of this Court, CTIA has consulted with counsel for the other parties in this proceeding. The FCC has informed CTIA that it consents to CTIA’s motion, and Petitioners and the United States have informed CTIA that they do not oppose CTIA’s motion.

³ *Protecting and Promoting the Open Internet*, WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd. 5601 (2015) (*Title II Order*).

requirements more stringent than those imposed by the Order. *See* Order ¶ 195. Finally, the Order adopts transparency rules requiring disclosure of information relating to network management, performance, and commercial terms of service. *See* Order ¶ 215.

Petitions for review seeking vacatur of the Order, including the above-captioned case, were filed in this Circuit and the D.C. Circuit.⁴ The FCC provided notice of multicircuit petitions to the Judicial Panel on Multidistrict Litigation pursuant to 28 U.S.C. § 2112(a), and the Panel randomly selected this Circuit in

⁴ *Cty. of Santa Clara & Santa Clara Cty. Cent. Fire Protection Dist. v. FCC*, No. 18-70506, D.E. 1-5, at 3 (9th Cir. Feb. 22, 2018); *Cal. Pub. Util. Comm'n v. FCC*, No. 18-70510, D.E. 1-3, at 2 (9th Cir. Feb. 22, 2018); *Mozilla Corp. v. FCC*, No. 18-1051, doc. 1719109, at 3 (D.C. Cir. Feb. 22, 2018); *Vimeo Inc. v. FCC*, No. 18-1052, doc. 1719225, at 3 (D.C. Cir. Feb. 22, 2018); *Public Knowledge v. FCC*, No. 18-1053, doc. 1719240, at 3 (D.C. Cir. Feb. 22, 2018); *Open Tech. Inst. at New Am. v. FCC*, No. 18-1054, doc. 1719231, at 2 (D.C. Cir. Feb. 22, 2018); *New York et al. v. FCC*, No. 18-1055, doc. 1719727, at 2 (D.C. Cir. Feb. 22, 2018); *Nat'l Hispanic Media Coalition v. FCC*, No. 18-1056, doc. 1719257, at 2 (D.C. Cir. Feb. 23, 2018); *NTCH, Inc. v. FCC*, No. 18-1061, doc. 1719748, at 2 (D.C. Cir. Feb. 26, 2018); *Benton Found. v. FCC*, No. 18-1062, doc. 1719736, at 3 (D.C. Cir. Feb. 27, 2018); *Free Press v. FCC*, No. 18-1064, doc. 1720545, at 2 (D.C. Cir. Mar. 1, 2018); *Coalition for Internet Openness v. FCC*, No. 18-1065, doc. 1721115, at 3 (D.C. Cir. Mar. 5, 2015); *Etsy Inc. v. FCC*, No. 18-1066, doc. 1721105, at 3–4 (D.C. Cir. Mar. 5, 2018); *Ad Hoc Telecom Users Comm. v. FCC*, No. 18-1067, doc. 1721288, at 3–4 (D.C. Cir. Mar. 5, 2018); *Ctr. For Democracy and Tech. v. FCC*, No. 18-1068, doc. 1721195, at 2 (D.C. Cir. Mar. 5, 2018).

which to consolidate these petitions.⁵ The D.C. Circuit subsequently transferred the cases filed in that court to this Circuit.⁶

CTIA files this motion to intervene in order to defend the Order on judicial review. CTIA is a non-profit, incorporated association of members of the wireless communications industry, including service providers, manufacturers, wireless data and Internet companies, and other industry participants. CTIA actively participated in the FCC proceedings leading to the adoption of the Order and consistently supported the Commission's efforts to restore a light-touch regulatory framework to the Internet. CTIA's members include all four nationwide wireless carriers and many more regional carriers, who collectively provide BIAS to hundreds of millions of customers in the U.S. CTIA's members thus would be adversely affected if the Order were set aside and the prior *Title II Order* classification and rules were reinstated. Accordingly, CTIA is a "party in interest" entitled to mandatory intervention in Petitioners' appeal because it participated "in the proceeding before the agency," and its "interests will be affected" by this Court's disposition of the petitions for review. 28 U.S.C. § 2348.

⁵ *In re FCC, In the Matter of Restoring Internet Freedom*, MCP no. 150, doc. 4, (J.P.M.L. Mar. 8, 2018).

⁶ *See Mozilla Corp. v. FCC*, No. 18-1051, doc. 1721436 (D.C. Cir. Mar. 9, 2018).

CTIA respectfully asks that this Court grant its motion to intervene in the above-captioned case.

Dated: March 15, 2018

Respectfully submitted,

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, CTIA states that it is a Section 501(c)(6) not-for-profit corporation organized under the laws of the District of Columbia that represents the wireless communications industry. Members of CTIA include service providers, manufacturers, wireless data and Internet companies, and other industry participants. CTIA has not issued any shares or debt securities to the public, and CTIA has no parent companies, subsidiaries, or affiliates that have issued any shares or debt securities to the public. No parent or publicly held company owns 10% or more of CTIA's stock.

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Motion for Leave to Intervene complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2) because it contains 872 words. I further certify that this Motion complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Times New Roman 14-point font.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of March, 2018, I electronically filed the foregoing Motion for Leave to Intervene with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the Court's CM/ECF system.

I further certify that service was accomplished on all participants in the case via the Court's CM/ECF system.

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