

# 23 Attorneys General Challenge FCC Ruling on Net Neutrality

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On June 11, the FCC’s Restoring Internet Freedom Declaratory Ruling, Report and Order, and Order, 33 FCC Rcd. 311 (2018) (the “Order”) took effect. The Order overturned the net neutrality rules that prevented internet service providers from taking certain controversial actions, including blocking internet access, slowing down or throttling, and engaging in paid prioritizing for certain websites.

Twelve separate lawsuits were filed seeking to challenge the FCC’s decision to end net neutrality, and the U.S. Court of Appeals for the District of Columbia Circuit is presiding over the consolidated actions. Advocacy groups, companies including Mozilla Corporation and Vimeo, Inc., and a coalition of 23 attorneys general representing more than half the U.S. population, are among the petitioners who have pending suits. The coalition of attorneys general represents the District of Columbia and states including California, Connecticut, Delaware, Illinois, New Jersey, New York, and Washington.

On August 20, the attorneys general, led by New York Attorney General Barbara Underwood, filed their “ Proof Brief for Government Petitioners ” in the DC court, arguing the FCC’s Order should be vacated and reversed. Among other things, the brief argues that the new rules fail to adequately protect consumers. They argue that without any specific enforcement mechanism, nothing exists to prevent an internet service provider from blocking, throttling, or engaging in paid prioritization subject only to the limited disclosure requirements of the new, less stringent rules in effect.

After briefing and oral argument, the court will decide whether the Order remains in place, or whether net neutrality rules should be restored.

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