

23 Attorneys General Challenge FCC Ruling on Net Neutrality

TECHNOLOGY & TELECOMMUNICATIONS | AUGUST 27, 2018



Kristin A. Gore



James B. Baldinger

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.

©2019 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.