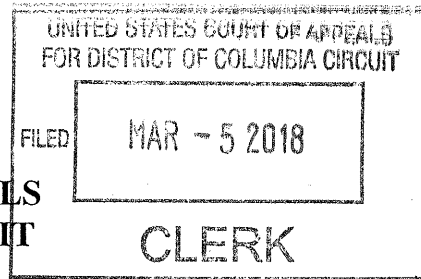


MAR -5 2018



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

COALITION FOR INTERNET OPENNESS,

Petitioner,

v.

FEDERAL COMMUNICATIONS  
COMMISSION  
and UNITED STATES OF AMERICA,

Respondents.

Case No. 18-1065

**PETITION FOR REVIEW**

Pursuant to 5 U.S.C. § 706, 47 U.S.C. § 402(a), 28 U.S.C. §§ 2342 and 2344, and Federal Rule of Appellate Procedure 15(a), the Coalition for Internet Openness hereby petitions this Court for review of the final order of the Federal Communications Commission (“FCC”) captioned Restoring Internet Freedom, *Declaratory Ruling, Report and Order, and Order*, WC Docket No. 17-108, FCC 17-166 (rel. Jan. 4, 2018) (“Order”). Petitioner is providing an electronic copy of the Order on CD with this petition. A summary of the Order was published in the Federal Register on February 22, 2018. *See* 83 Fed. Reg. 7852.

Venue is proper in this Court pursuant to 28 U.S.C. § 2343.

In 2015, the FCC promulgated strong net neutrality protections—protections that this Court affirmed in 2016. *See* Protecting and Promoting the Open Internet, *Report and Order On Remand, Declaratory Ruling, and Order*, 30 FCC Rcd. 5601

(2015), *aff'd sub nom. United States Telecom Ass'n v. FCC*, 825 F.3d 674 (D.C. Cir. 2016). Now, less than two years after that decision, the FCC has improperly reversed course and promulgated an Order that is nearly the precise opposite of its previous action.

In its 2016 decision, this Court held that the FCC had properly exercised its authority to reclassify broadband Internet access service as a telecommunications service subject to Title II of the Communications Act of 1934 and to promulgate rules that prohibited broadband providers from blocking, degrading, or otherwise interfering with in a discriminatory fashion the Internet traffic between the broadband providers' customers and edge providers. In the Order on review here, the FCC departed from its prior reasoning and precedent, reclassified broadband Internet access service as an information service subject to Title I of the Communications Act under a never-before-used standard, and eliminated all of the protections that ensured edge providers and consumers would have access to an open Internet.

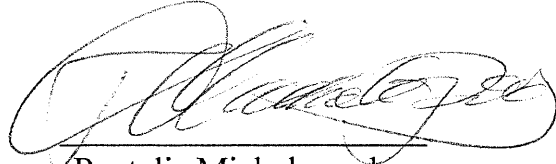
To modify recently promulgated agency rules based on a change of policy is one thing; to demolish, another. In the space of two years, the agency has pivoted from strong net neutrality protections that were affirmed by this Court in their entirety to no substantive rules at all; to washing its hands of net neutrality, the single most important communications issue of the time; to kicking the issue

across the street into the court of another, generalist agency; and to newly minted rationales that would shrink or entirely vitiate its jurisdiction to regulate *any* communications. Deference does not apply at all when Congress has directly spoken to the precise question at issue. It is not a blank check even when it does apply.

Petitioner seeks review of the Order on the grounds that: it violates federal law, including, but not limited to, the Communications Act of 1934, 47 U.S.C. §§ 151 *et seq.*, as amended, and the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56; it abdicates the FCC's statutory mandate; it is arbitrary, capricious, and an abuse of discretion within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*; and it is otherwise contrary to law.

Petitioner, a coalition whose mission is to advocate for a legal environment that preserves and extends the openness of the Internet—keeping it fast, open, and accessible to all Americans—participated in the proceeding below. Its members include Automattic Inc., Foursquare Labs, Inc., Etsy, Inc., Expa, LLC, Kickstarter, PBC, and Shutterstock, Inc. Petitioner is aggrieved by the Order. Petitioner respectfully requests that this Court hold unlawful, vacate, enjoin, and set aside the Order, and that it provide additional relief as may be just and appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Pantelis Michalopoulos', written over a horizontal line.

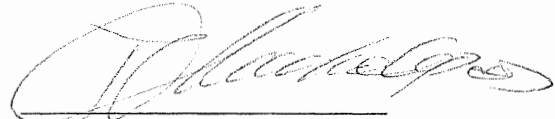
Pantelis Michalopoulos  
Georgios Leris  
Steptoe & Johnson LLP  
1330 Connecticut Avenue NW  
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(202) 429-3000  
*Counsel for Petitioner Coalition  
for Internet Openness*

Dated: March 5, 2018

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and this Court's Rule 26.1, the Coalition for Internet Openness respectfully submits the following corporate disclosure statement. The Coalition is a non-profit corporation that has not issued shares or debt securities to the public. The Coalition does not have any parent companies, subsidiaries, or affiliates. Coalition members include Automattic Inc., Foursquare Labs, Inc., Etsy, Inc., Expa, LLC, Kickstarter, PBC, and Shutterstock, Inc. The Coalition's mission is to advocate for a legal environment that preserves and extends the openness of the Internet—keeping it fast, open, and accessible to all Americans.

Respectfully submitted,



Pantelis Michalopoulos  
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(202) 429-3000  
*Counsel for Petitioner Coalition  
for Internet Openness*

Dated: March 5, 2018

## CERTIFICATE OF SERVICE

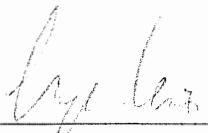
I, Georgios Leris, hereby certify that on March 5, 2018, I caused a copy of the foregoing Petition for Review and Corporate Disclosure Statements to be served on the following counsel by the manner indicated:

*By First Class Mail and  
Electronic Mail*

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\_\_\_\_\_  
Georgios Leris