

**FOR IMMEDIATE RELEASE****January 18, 2005**

WLF ASKS SUPREME COURT TO MINIMIZE BROADBAND REGULATION

***(National Cable & Telecomm. Ass'n v. Brand X Internet Svcs.,
Nos. 04-277 and 04-281)***

The Washington Legal Foundation (WLF) filed a brief today in the U.S. Supreme Court to oppose the imposition of burdensome regulatory requirements on the delivery of broadband Internet access. The case involves a decision by the Federal Communications Commission (FCC) to treat cable modem service as an “information service” rather than a “telecommunications service,” with the result that it would be subject to less regulation. In particular, it meant that cable modem providers (local cable television companies) would not be required to share their lines with other providers of Internet service – known as “common carrier” or “open access” requirements.

The U.S. Court of Appeals overturned that FCC decision, relying on one of the court’s own earlier precedents that predated the FCC’s policy analysis. The Supreme Court agreed to review the case on December 3, 2004.

In its brief, WLF responded to activists who argue that common carrier requirements are needed to prevent cable companies from establishing a broadband monopoly and censoring content for financial or political reasons. WLF’s brief argued that the broadband marketplace is highly competitive, with cable companies locked in intense competition with local telephone companies (providers of “Digital Subscriber Line,” or DSL, broadband service). It noted that further competition is on the horizon in the form of new technologies for delivering broadband service: wide-area wireless networks, broadband-over-powerline, and Ka-band satellite. WLF observed that if cable modem providers attempt to deny consumers the content they desire, those providers will quickly find themselves on the losing end of the marketplace battle.

WLF is a public interest law and policy center with supporters nationwide. WLF has frequently appeared as amicus in federal courts to address the proper scope of the telecommunications laws and other federal laws as they apply to the telecommunications industry and the Internet. *See, e.g., Metro-Goldwyn-Mayer Studios, Inc. v. Grokster* (No. 04-480) (supporting petition for certiorari); *Verizon Communications, Inc. v. Trinko*, 540 U.S. 398 (2004). WLF’s Legal Studies Division publishes policy papers educating policymakers and

practitioners regarding these subjects. *See, e.g.*, Kristen J. Mathews, *Understanding and Complying With The "CAN-SPAM" Act* (2004); Prof. Richard A. Epstein, *"Digital Rights Management" Best Left To Private Contract* (2002); Steven G. Bradbury and Grant M. Nixon, *Court Ruling Wrongly Creates New Right To Sue Telecom Companies* (2002).

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