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Media Contact: Mark Chenoweth | mchenoweth@wlf.org | 202-588-0302

## WLF Asks Federal Appeals Court to Reject FCC's Controversial "Net Neutrality" Rules

*(United States Telecom Association v. FCC)*

**"FCC's approach to net neutrality is especially disturbing given its lack of accountability to voters. The American people are the ones who will have to cope with the slower Internet speeds and higher broadband prices the Commission's burdensome new rules will generate."**

**—Cory Andrews, WLF Senior Litigation Counsel**

WASHINGTON, DC—Former FCC Commissioner Harold Furchtgott-Roth and Washington Legal Foundation today asked the U.S. Court of Appeals for the D.C. Circuit to vacate an order by the Federal Communications Commission ("FCC") that would enable the agency to wield virtually unlimited power to regulate the Internet. In a brief filed in *United States Telecom Association v. FCC*, WLF argues that FCC vastly exceeded its authority by imposing burdensome regulations on broadband service providers without any congressional invitation or statutory mandate to do so.

The case arises from FCC's misleadingly named final March 12, 2015 order, *Protecting and Promoting the Open Internet* ("the Order"), which establishes new rules for providers of "broadband Internet access service." In addition to reclassifying broadband service as a Title II telecommunications service subject to common carrier regulation under the Communications Act of 1934, the Order imposes new "Open Internet Rules" that prohibit any and all broadband provider efforts to control or prioritize traffic over their networks, even if the practices would expand end users' access to Internet content or serve another legitimate purpose in meeting consumer demand.

Former Commissioner Furchtgott-Roth and WLF's brief argues that nothing in § 706 of the Telecommunications Act of 1996 grants the Commission the sweeping authority it claims to regulate the Internet. Rather, the text, structure, and legislative history of § 706 all mutually reinforce the view that the statute does *not* affirmatively grant independent regulatory authority, but instead contains a congressional directive to increase capital investment in broadband technology by *deregulating* the Internet. Furchtgott-Roth and WLF further argue that even if statutorily authorized, FCC's Open Internet Rules must be vacated because they run afoul of the U.S. Constitution. By denying broadband providers editorial discretion and compelling them to convey *all* Internet content—even that with which they may disagree—the Rules violate their First Amendment rights.

Upon filing its brief, WLF issued this statement by Senior Litigation Counsel Cory Andrews: "Congress has refused to regulate the Internet, and it is not up to FCC to write laws Congress will not pass. FCC's approach to net neutrality is especially disturbing given its lack of accountability to voters. The American people are the ones who will have to cope with the slower Internet speeds and higher broadband prices the Commission's burdensome new rules will generate."

*WLF is a free-market, public-interest law firm and policy center that fights for limited government by making federal agencies abide by statutory and constitutional constraints on their regulations.*