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## WLF Stands up for Free Speech, Protecting the Internet from Excess Government Regulation

*(In re: Restoring Internet Freedom)*

**“The time has come for FCC to scrap its ill-conceived takeover of the Internet, which impermissibly targets the speech of Internet service providers for regulatory restrictions and burdens. The Supreme Court’s recent case law makes it abundantly clear that such discriminatory regulation fails any level of First Amendment scrutiny.”**

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

WASHINGTON, DC—Washington Legal Foundation filed comments with the Federal Communications Commission (FCC) yesterday on behalf of itself and its client, Harold Furchtgott-Roth, former FCC Commissioner, urging the Commission to end its public-utility regulation of the Internet and modify or eliminate its so-called *Title II Order* from 2015. This Order established three rules that prohibit all blocking, throttling, and paid prioritization by broadband Internet service providers (ISPs). WLF filed its comments in response to FCC’s June 2, 2017 Notice of Proposed Rulemaking (NPRM).

WLF’s comments focus on a specific question of the NPRM—whether “the continued classification of broadband Internet access service as a common-carriage service itself raises any constitutional concerns.” Addressing the constitutional deficiencies of FCC’s Title II Order, WLF argues that the Order violates the First Amendment because it compels speech by forcing ISPs to carry, transmit, and deliver all Internet content.

These comments also explain how the Order discriminates against ISPs in violation of the First Amendment by creating a content- and speaker-based restriction that does not apply to other Internet entities that also disseminate information. Without a substantial government interest in banning or burdening truthful speech, WLF also argues that the agency cannot limit ISPs’ speech simply because that speech might influence behavior:

At their core, content- and speaker-based regulations are nothing more than paternalism, and courts are particularly skeptical of the government’s attempts to restrict speech based on its own perception of what is in people’s best interests.

WLF and Furchtgott-Roth strongly recommend that FCC withdraw the *Title II Order* in its entirety. The Order cannot withstand a constitutional challenge, as it infringes private speakers’ First Amendment rights to speak freely or to refrain from speaking at all.

*Celebrating its 40<sup>th</sup> year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.*

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