

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

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UNITED STATES TELECOM ASSOCIATION,)	
et al.,)	
)	
<i>Petitioners,</i>)	
)	
v.)	Case No. 15-1063
)	(and consolidated
FEDERAL COMMUNICATIONS COMMISSION,)	cases)
and UNITED STATES OF AMERICA,)	
)	
<i>Respondents.</i>)	
<hr/>)	

MOTION FOR LEAVE TO INTERVENE

Pursuant to 28 U.S.C. § 2348,¹ Fed. R. App. P. 15(d), and Rule 15(b) of the D.C. Circuit Rules, COMPTEL hereby moves to intervene in the above-captioned proceeding in support of the Federal Communications Commission (“FCC”) and the United States of America.

Petitioners seek review of the FCC’s order captioned *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, *Report and Order on Remand, Declaratory Ruling, and Order*, FCC 15-24 (rel. Mar. 12, 2015) (“*Order*

¹ See 28 U.S.C. § 2348 (“[A]ny party in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended [by the court], may appear as [a] part[y] thereto of their own motion and as of right.”).

on Remand”). The *Order on Remand* promotes an open Internet by adopting rules prohibiting blocking, throttling, paid prioritization and unreasonable discrimination and reclassifying broadband Internet access service (“BIAS”) as a telecommunications service pursuant to the FCC’s authority under Titles II and III of the Communications Act and Section 706 of the Telecommunications Act.²

COMPTEL is eligible to intervene in this proceeding.³ COMPTEL’s membership includes leading Internet companies, wireline and wireless Internet service providers, online video distributors and Internet backbone operators.⁴

COMPTEL participated as a party in the proceeding before the FCC that resulted in the *Order on Remand* for which Petitioners seek review.⁵ COMPTEL’s interests

² 47 U.S.C. § 1302(a).

³ Intervention is permitted under Fed. R. App. P. 15(d) for parties “directly affected by” the order at issue. *Yakima Valley Cablevision, Inc. v. FCC*, 794 F.2d 737, 744-45 (D.C. Cir. 1986); see also *New Mexico Dep’t of Human Servs. v. Dep’t of Health & Human Servs. Health Care Fin. Admin.*, 4 F.3d 882, 884 n.2 (10th Cir. 1993) (Rule 15(d) motion granted to intervenors with a “substantial and unique interest in the outcome”); *Bales v. NLRB*, 914 F.2d 92, 94 (6th Cir. 1990) (Rule 15(d) motion granted to one with “substantial interest in the outcome”); *In re Grand Jury Investigation of Cuisinarts, Inc.*, 665 F.2d 24, 28 n.2 (2d Cir. 1981) (Rule 15(d) motion granted to one with “significant interests” in proceedings).

⁴ A List of COMPTEL’s members can be found here: <http://www.comptel.org/memberlist.asp?contentid=2109>.

⁵ See Letter from Angie Kronenberg, COMPTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Feb. 19, 2015); Letter from Markham C. Erickson, Counsel to COMPTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Feb. 19, 2015); Letter from Angie Kronenberg, COMPTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Feb. 12, 2015); Letter from Chip Pickering, COMPTEL, to Marlene

and the interests of its members would be adversely affected by a reversal or modification of the FCC's *Order* which Petitioners ask the Court to hold unlawful, vacate, enjoin and set aside.

The FCC's rules address threats to the open Internet by, among other things, prohibiting BIAS providers from unreasonably interfering with or disadvantaging end users' or edge providers' ability to use BIAS to access or use lawful broadband services, applications, or content and committing to resolve disputes regarding Internet traffic exchange over the "last mile" connection to the BIAS providers' customers on a case by case basis. The rules will ensure that consumers and businesses can access a competitive network of online content, applications, and services. Through its intervention in this dispute, COMPTTEL intends to support

Dortch, FCC, GN Docket No. 14-28 (Jan. 26, 2015); Letter from Angie Kronenberg, COMPTTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Jan. 23, 2015); Letter from Angie Kronenberg, COMPTTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Jan. 21, 2015); Letter from Angie Kronenberg, COMPTTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Jan.13, 2015); Letter from, COMPTTEL, Engine, CCIA, and IFBA, to Marlene Dortch, FCC, GN Docket No. 14-28 (Dec. 30, 2014); Letter from Angie Kronenberg, COMPTTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Dec. 11, 2014); Letter from Angie Kronenberg, COMPTTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Nov. 12, 2015); Letter from Angie Kronenberg, COMPTTEL, to Marlene Dortch, FCC, GN Docket No. 14-28 (Nov. 4, 2014); COMPTTEL, Reply Comments, GN Docket No. 14-28 (Sept. 15, 2014); COMPTTEL, Comments, GN Docket No. 14-28 (Jul. 15, 2014); Letter from COMPTTEL, Internet Association, Engine, and National Association of Realtors, to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly, FCC, GN Docket No. 14-28 (May 9, 2014).

the FCC's rules that protect an open Internet and the virtuous circle of innovation and investment that the rules will foment.

CONCLUSION

COMPTEL respectfully requests that the Court grant the instant motion to intervene in these proceedings.

Respectfully submitted,

/s/ Markham C. Erickson

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Counsel for COMPTEL

Dated May 12, 2015

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CERTIFICATE AS TO PARTIES

Pursuant to D.C. Circuit Rule 27(a)(4) and D.C. Circuit Rule 28(a)(1)(A),
COMPTEL certifies the following:

In Case No. 15-1063 and consolidated cases, the Petitioners are the United States Telecom Association, Alamo Broadband Inc., AT&T Inc., the American Cable Association, CTIA – The Wireless Association, CenturyLink, the National Cable and Telecommunications Association, the Wireless Internet Service Providers Association, and Daniel Berninger. The Respondents are the Federal Communications Commission (“FCC”) and the United States of America. The intervenors for Respondents are Public Knowledge and the National Association of State Utility Consumer Advocates. No amici have appeared before this court at

this time. COMPTEL seeks leave to appear in this matter as an Intervenor in support of Respondents.

Respectfully submitted,

/s/ Markham C. Erickson

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RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1 and D.C. Circuit Court Rule 26.1,
COMPTEL submits this disclosure of interests.

COMPTEL is the leading national trade association representing competitive communications service providers and their supplier partners. COMPTEL is a not-for-profit corporation and has not issued shares or debt securities to the public. COMPTEL does not have any parent companies, subsidiaries, or affiliates that have issued shares or debt securities to the public.

Respectfully submitted,

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Dated May 12, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of May, 2015, I caused true and correct copies of the foregoing Motion to Intervene to be filed electronically with the Clerk of the Court using the Case Management and Electronic Case Files (“CM/ECF”) system for the D.C. Circuit. Participants in the case will be served by the CM/ECF system or by U.S. Mail.

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