

Amicus Brief of ICLE and Participating Scholars, Mozilla v. FCC

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Summary

ICLE filed a brief in support of Petitioners in the D.C. Circuit case, *Mozilla v. FCC*, a case that challenged the FCC's authority to issue the Restoring Internet Freedom Order ("RIFO"). In RIFO, the FCC repealed the Title II classification on ISPs, preempted conflicting state laws, and applied a transparency rule against ISPs, among other provisions. In our brief, we argue that:

Contrary to the claims of Petitioners, the Commission acted well within its authority in adopting the Order. The Commission developed a comprehensive regulatory scheme for ISPs that includes both obligations imposed under the Communications Act, as well as complementary regulation and potential enforcement under antitrust law by the Commission's sister agencies. As we show below, this competition-oriented, light touch regulatory regime comports with the relevant provisions and stated goals of the Communications Act far better than the *ex ante* rules adopted in the Title II Order.

In adopting this competition-oriented regulatory regime, the Commission also acted within its authority to preempt contradictory state laws under well-established precedent. The Commission did so while properly allowing for states to continue to regulate under other laws of general applicability that do not conflict with or frustrate the federal policies underlying the Order.

Accordingly, the Order should be upheld and the petitions for review should be denied.

Signatories on the Brief

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