

FEB 22 2018

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

VIMEO, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION and UNITED
STATES OF AMERICA,

Respondents.

Case No. 18- 18-1052

PETITION FOR REVIEW

Pursuant to 5 U.S.C. § 706, 47 U.S.C. § 402(a), 28 U.S.C. §§ 2342-44, Federal Rule of Appellate Procedure 15(a), and D.C. Circuit Rule 15(a), Vimeo, Inc. (“Vimeo”) hereby petitions this Court for review of the final order of the Federal Communications Commission (“FCC”) captioned, *Restoring Internet Freedom*, Declaratory Ruling, Report and Order, and Order, WC Docket No. 17-108, FCC 17-166 (published in the Federal Register on February 22, 2018) (the “2018 Order”). Vimeo is providing an electronic copy of the 2018 Order on CD/DVD media with this petition.

Venue is proper in this Court pursuant to 28 U.S.C. § 2343.

In 2015, following several years of attempts to codify the principle of “net neutrality,” the FCC classified broadband Internet access service as a

telecommunications service subject to Title II of the Communications Act of 1934, as amended, and promulgated several rules that prohibit broadband providers from blocking, degrading, or otherwise interfering with in a discriminatory fashion the Internet traffic between their customers and the websites and online applications used by those customers. *See Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Red. 5601 (2015) (the “2015 Order”). This Court upheld the 2015 Order in its entirety. *United States Telecom Ass’n v. FCC*, 825 F.3d 674 (D.C. Cir. 2016).

Following a change in administration, the FCC, in 2017, embarked on a rulemaking process with the intention of doing away with the 2015 Order despite the substantial evidence supporting its wisdom. This proceeding culminated in the 2018 Order, which reclassified broadband Internet access service as a mere “information service” and all but eliminated the 2015 Order’s protections against broadband provider interference with Internet traffic. This nearly complete about-face is a wholesale abdication of the FCC’s statutory mandate to regulate one of the most critical means of interstate communication available today—access to the Internet through high-speed broadband. To reach its foreordained result, the FCC conducted a deeply flawed rulemaking process and departed starkly from prior FCC reasoning and precedent.

Vimeo seeks review of the 2018 Order on the grounds that, under the Administrative Procedure Act, 5 U.S.C. § 706, it is arbitrary, capricious, an abuse of discretion, and otherwise contrary to law, including the Communications Act of 1934, and was promulgated without observation of procedure required by law, including the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. § 553.

Vimeo requests that the Court vacate, enjoin, and set aside the 2018 Order and grant such other relief as the Court may deem just and appropriate.

Dated: February 22, 2018

Respectfully submitted,

VIMEO, INC.



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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Vimeo, Inc. (“Vimeo”) states as follows:

Vimeo, a Delaware corporation, is a subsidiary of IAC/InterActiveCorp (“IAC”), a Delaware corporation. Other than IAC, no publicly held company owns more than 10% of Vimeo’s stock. IAC is a publicly held company with no parent company; no publicly held company owns more than 10% of IAC’s stock.

Vimeo owns and operates the *Vimeo*® online video hosting and sharing service. Vimeo participated in the rulemaking process that culminated in the challenged agency order and is aggrieved by that order.

Dated: February 22, 2018

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Michael A. Cheah, hereby certify that on February 22, 2018, I caused a copy of the foregoing Petition for Review and Corporate Disclosure Statement to be served on the following counsel by the manner indicated:

By First Class Mail & Electronic Mail

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