

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

UNITED STATES TELECOM ASSOCIATION,
et al.,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,

Respondents

No. 15-1063 (and
consolidated cases)

**MOTION OF THE AMERICAN LIBRARY ASSOCIATION,
ASSOCIATION OF COLLEGE AND RESEARCH LIBRARIES,
ASSOCIATION OF RESEARCH LIBRARIES AND THE CHIEF
OFFICERS OF STATE LIBRARY AGENCIES FOR LEAVE TO FILE
AMICI CURIAE BRIEF IN SUPPORT OF RESPONDENTS**

Pursuant to Federal Rule of Appellate Procedure 29(a)-(b) and D.C. Circuit Local Rule 29(b) and (d), and the briefing schedule established in this case on June 29, 2015, the American Library Association (“ALA”), Association of College and Research Libraries (“ACRL”), Association of Research Libraries (“ARL”) and the Chief Officers of State Library Agencies (“COSLA”) move for leave to file a brief as *amici curiae* in support of respondents Federal Communications Commission

and the United States. This brief will be filed no later than September 21, 2015 in accordance with D.C. Circuit Rule 29(c).

The ALA is the oldest and largest library association in the world, with approximately 57,000 members in academic, public, school, government and special libraries. ACRL, a division of ALA, is a professional association of academic librarians and other interested individuals. ARL is an organization of 124 research libraries in the US and Canada. COSLA is an independent organization of the chief officers of state and territorial agencies designated as the state library administrative agency and responsible for statewide library development. Collectively, these library organizations share a common mission of promoting access to information and knowledge, including ensuring that users can access, produce and distribute content and services over the Internet. ALA, ACRL, ARL and COSLA actively participated in the FCC's captioned *Protecting and Promoting the Open Internet* proceedings resulting in the FCC's Open Internet rules adopted on February 26, 2015 and made effective on June 12, 2015. ALA, ACRL, ARL and COSLA joined a coalition of library and higher education organizations in filing principles, initial comments and reply comments in that FCC proceeding. ALA, ACRL, ARL and COSLA believe that the rules established in the *Open Internet Order* are imperative for protecting the openness of the Internet and ensuring that the Internet continues to function as a democratic

and neutral platform for carrying information and research to the general public. The institutions represented by ALA, ACRL, ARL and COSLA as well as their patrons will be directly affected by the outcome of this proceeding and therefore have a demonstrated interest in its outcome. *See* Fed. R. App. 29(b)(1).

ALA, ACRL, ARL and COSLA seek leave to file an *amici curiae* brief of only 4,500 words to address points not made by respondents that are unique to libraries and their patrons. Specifically, ALA, ACRL, ARL and COSLA will argue that the rules in the FCC's *Open Internet Order* are necessary to protect the mission and values of libraries and their patrons, particularly with respect to the rules prohibiting paid prioritization. Without rules banning paid prioritization, libraries would be significantly hampered in efforts to provide the most vulnerable populations with access to content and services on the Internet, including educational resources and non-profit content. Additionally, ALA, ACRL, ARL and COSLA will argue that the General Conduct Standard is an important tool in ensuring that the open character of the Internet is preserved, allowing the Internet to continue to operate as a democratic platform for research, learning and the sharing of information. ALA, ACRL, ARL and COSLA submit that this standard is consistent with the Communications Act and is necessary to ensure that the FCC has the authority to protect the openness of the Internet against future harms that cannot yet be defined. For these reasons, an *amici* brief from ALA, ACRL, ARL

and COSLA would be of assistance to the Court and the matters to be argued in the brief are relevant to the disposition of this case. *See* Fed. R. App. 29(b)(1).

All petitioners, respondents and intervenors to this proceeding have consented to, or indicated they do not oppose, the filing of an *amici brief* by ALA, ACRL, ARL and COSLA in this proceeding.

The interests of ALA, ACRL, ARL and COSLA discussed above, which represent non-commercial entities that interact with the Internet as 1) Internet users, 2) providers of Internet service to library patrons, and 3) providers of applications and content, are significantly different from those of other entities wishing to appear as *amici curiae*. For these reasons, ALA, ACRL, ARL and COSLA submit that a separate *amici* brief is warranted.¹

Respectfully submitted,

/s/ Krista L. Cox
Association of Research Libraries
21 Dupont Circle, NW
Suite 800
Washington, DC 20036
Phone: 202-296-2296, ext. 156
Fax: 202-872-0884

Counsel for the Amici

Dated September 1, 2015

¹ Additionally, entities that have the same interests as the library organizations listed on this motion may ultimately join the *amici* brief, without seeking to increase the word limit of the brief.

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

UNITED STATES TELECOM ASSOCIATION,
et al.,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,

Respondents

No. 15-1063 (and
consolidated cases)

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, the American Library Association (“ALA”), Association of College and Research Libraries (“ACRL”), Association of Research Libraries (“ARL”) and Chief Officers of State Library Agencies (“COSLA”) respectfully submit the following corporate disclosure statement.

ALA is the oldest and largest library association in the world, with approximately 57,000 members in academic, public, school, government and special libraries. ALA is a not-for-profit organization and has not issued shares or debt securities to the public. ALA does not have any parent companies, subsidiaries or affiliates that have issued shares or debt securities to the public.

ACRL, a division of ALA, is a professional association of academic librarians and other interested individuals. ACRL is a not-for-profit organization and has not issued shares or debt securities to the public. ACRL does not have any parent companies, subsidiaries or affiliates that have issued shares or debt securities to the public.

ARL is an organization of 124 research libraries in the US and Canada. ARL is a not-for-profit organization and has not issued shares or debt securities to the public. ARL does not have any parent companies, subsidiaries or affiliates that have issued shares or debt securities to the public.

COSLA is an independent organization of the chief officers of state and territorial agencies designated as the state library administrative agency and responsible for statewide library development. COSLA is a not-for-profit organization and has not issued shares or debt securities to the public. COSLA does not have any parent companies, subsidiaries or affiliates that have issued shares or debt securities to the public.

Respectfully submitted,

/s/ Krista L. Cox
Association of Research Libraries
21 Dupont Circle, NW
Suite 800
Washington, DC 20036
Phone: 202-296-2296, ext. 156

Fax: 202-872-0884

Counsel for the Amici

Dated September 1, 2015

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2015, I electronically file the foregoing with the Clerk of Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. Participants in the case will be served by the CM/ECF system or by U.S. mail.

/s/ Krista L. Cox
Association of Research Libraries
21 Dupont Circle, NW
Suite 800
Washington, DC 20036
Phone: 202-296-2296, ext. 156
Fax: 202-872-0884

Counsel for the Amici