

Jenner & Block Secures Significant Win for Cable Industry

News

May 26, 2021

The firm secured a significant win for its cable industry client NCTA – The Internet & Television Association (NCTA) – when the US Court of Appeals for the Sixth Circuit affirmed an order of the Federal Communications Commission (FCC) for which NCTA and its members had long advocated. Over the past 15 years, the FCC has published a series of written orders that, together with Title VI of the Communications Act, 47 U.S.C. § 521 *et seq.*, set forth rules by which state and local governments may regulate cable providers. The FCC’s most recent rule change in 2019 was the agency’s response to a previous Sixth Circuit mandate that the FCC clarify exactly what types of fees qualify as franchise fees, which can be exacted by state-approved regulatory bodies according to the Communications Act.

Numerous local governments, including the City of Eugene, OR, petitioned for review of the FCC’s 2019 order, arguing that the FCC misinterpreted the Communications Act. Jenner & Block represented NCTA, the national cable industry association, as intervenor in support of the FCC’s order.

On May 26, the Sixth Circuit affirmed the FCC’S landmark 2019 order clarifying the scope of state and local regulation of cable systems and the limits on cable franchise fees under the federal Cable Act. In its opinion, the three-judge panel determined that the FCC "amply explained the statutory bases for that interpretation" in its 2019 order.

In a statement, FCC Commissioner Brendan Carr stated that the “decision is a good win for every American that wants better, faster, and cheaper Internet service” and commended the court for “uphold[ing] the key reforms that the 2019 FCC majority put in place.”

Partner Jessica Ring Amunson presented oral argument on behalf of the NCTA, and the team included Partners Ian Heath Gershengorn and Howard J. Symons and former associate Elizabeth B. Deutsch.

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