



FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF GENERAL COUNSEL

# Memorandum

**TO:** Director, Reference Information Center

**FROM:** *DMA* Daniel M. Armstrong  
Associate General Counsel

**SUBJECT:** *Consumers Union v. FCC & USA*, No. 08-4269-ag. Filing of a Petition for Review in the United States Court of Appeals for the Second Circuit.

**DATE:** December 23, 2008

This is to advise you that on September 3, 2008, Consumers Union ("Petitioner") filed a Petition for Review in the U.S. Court of Appeals for the Second Circuit pursuant to 47 U.S.C. § 402(a), of the following order: *In the Matters of Formal Complaint of Free Press and Public Knowledge Against Comcast Corporation for Secretly Degrading Peer-to-Peer Applications; Broadband Industry Practices-Petition of Free Press et al. for Declaratory Ruling that Degrading an Internet Application Violates the FCC's Internet Policy Statement and Does Not Meet an Exception for "Reasonable Network Management"*, File No. EB-08-IH-1518, WC Docket No. 07-52, Memorandum Opinion and Order, 23 FCC Rcd 13028 (2008).

Comcast took steps to terminate some "peer-to-peer" internet connections upon determining that there were too many in a given area. In the order on review, the FCC found that this violated fed. policy and directed Comcast to submit a plan for compliance.

The Court has docketed this case as No. 08-4269-ag. As a result of a lottery proceeding, the case was transferred to the District of Columbia Circuit and given a new case number – 08-1318. The attorney assigned to handle the litigation of this case is Joel Marcus.