

IN THE SUPREME COURT OF THE UNITED STATES

No. 17-1705

PDR NETWORK, LLC, ET AL., PETITIONERS

v.

CARLTON & HARRIS, CHIROPRACTIC, INC.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL
ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting respondent and for divided argument and requests that the United States be allowed fifteen minutes of argument time. The United States has filed a brief as amicus curiae supporting respondent. Respondent has consented to an allocation of fifteen minutes of its time to the United States.

This Court granted certiorari on the question whether the

Administrative Orders Review Act, ch. 1189, 64 Stat. 1129, also known as the Hobbs Act, required the district court in this case to accept the Federal Communications Commission's legal interpretation of the Telephone Consumer Protection Act of 1991 (TCPA), Pub. L. No. 102-243, 105 Stat. 2394. The Hobbs Act gives the courts of appeals "exclusive jurisdiction * * * to determine the validity of" certain final agency actions, including most final orders of the Federal Communications Commission. 28 U.S.C. 2342(1); see 47 U.S.C. 402(a). The United States has a substantial interest in whether orders covered by that exclusive-jurisdiction provision may be collaterally attacked in civil suits between private parties, because such attacks undermine the interests of the United States and regulated parties in conclusively determining the validity of covered agency actions.

The United States has therefore previously participated in litigation on the question presented, setting forth its position that final orders of the Federal Communications Commission that are subject to the Hobbs Act may not be collaterally attacked by the litigants in private TCPA suits. It has done so in this Court, see Br. in Opp. at 8-14, Leyse v. Clear Channel Broad., Inc., 135 S. Ct. 57 (2014) (No. 13-1273), and in the courts of appeals, see Gov't Pet. for Reh'g at 7-15, Leyse v. Clear Channel Broad., Inc.,

No. 10-3739 (6th Cir. October 15, 2012); Gov't Amicus Br. at 7-14, Nack v. Walburg, No. 11-1460 (8th Cir. Aug. 24, 2012).

Because participation in oral argument by the United States will provide the Court with the United States' perspective on the questions presented, division of argument will materially assist the Court in its consideration of the case.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

FEBRUARY 2019