No. 25-1422

IN THE

Supreme Court of the United States

SPRINT CORPORATION, NKA SPRINT LLC, ET AL.,
Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION, ET AL.,
Respondents.

On Petition For a Writ of Certiorari to the United States Court of Appeals For the D.C. Circuit

BRIEF OF CTIA – THE WIRELESS ASSOCIATION AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTRODUCTION AND INTEREST OF *AMICUS CURIAE*[1]

In June, this Court affirmed the constitutionality of the Communication Act's enforcement scheme—but only after the Federal Communications Commission admitted that it "is powerless to visit any adverse consequences on a regulated party who receives a forfeiture order." *FCC v. AT&T, Inc.*, 146 S. Ct. 1418, 1429 (2026). The agency's concession that its forfeiture orders were non-binding and essentially advisory unless and until a trial *de novo* affirms them represented a seismic shift from the agency's previous position.

That change in enforcement authority and the resulting dissonance with the terms of the forfeiture orders issued here make this petition a perfect candidate for the Court to grant, vacate, and remand ("GVR")—as Petitioners T-Mobile USA, Inc. and Sprint Corporation persuasively explain. *See* Pet. 17–23.[2]

But *amicus* CTIA – The Wireless Association submits this brief in support of Petitioners'

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[1] No party's counsel authored this brief in whole or in part. None of the parties or their counsel, nor any other person or entity, other than *amicus*, its members, or its counsel, made a monetary contribution to fund the brief's preparation or submission. *Amicus* provided timely notice of this filing to all parties.

[2] For the same reason, the Court should also grant Verizon Communications Inc.'s request for a remand to the Second Circuit. *See* Pet. For Rehearing of Verizon Communications, Inc., *Verizon Communications, Inc. v. FCC*, No. 25-567 (June 29, 2026).

alternative request for plenary review. In the decision below, the D.C. Circuit committed two fundamental errors that have deepened inter-circuit confusion over the Communications Act and that make it difficult for providers to operate nationwide communications networks. First, the D.C. Circuit adopted an expansive, atextual interpretation of the Communications Act that effectively subjects lightly regulated Title I information services (e.g., Internet access) to a heavy-handed regulatory scheme that Congress reserved for Title II common-carrier activity (e.g., voice services). And second, it impermissibly deferred to the FCC's interpretation of a statutory penalty provision—effectively giving the agency a blank check to impose whatever monetary punishment it wants in future enforcement proceedings, flouting clear statutory language intended to cabin the agency's penal authority.

CTIA has a deep interest in resolving these issues of exceptional importance. CTIA represents the U.S. wireless industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st-century connected life. The association's members include wireless providers, device and equipment manufacturers, and suppliers, as well as app and content companies. The scope of the Commission's Title II jurisdiction and enforcement authority deeply affect these companies and their ability to effectively operate in the United States.

CTIA urges the Court to grant the petition.

SUMMARY OF ARGUMENT

This Court has "stressed over and over again in recent years, statutory interpretation must begin with, and ultimately heed, what a statute actually says." *Groff v. DeJoy*, 600 U.S. 447, 468 (2023) (alterations accepted; quotations omitted). The D.C. Circuit rejected that teaching.

Its decision concerned a straightforward set of facts. Wireless providers obtain location data when customer devices passively ping their networks. These passive pings are necessary for the provision of both voice services and Internet data; without these passive pings, the network would not be able to locate customer devices in order to deliver either voice or data. Sprint and T-Mobile used to offer a program through which customers could share this location data with third-party service providers. For example, AAA could use the data to help locate and assist a stranded driver. But one of those third-party service providers abused this program by acquiring location data for unauthorized purposes. The FCC subsequently brought an enforcement action under Section 222 of the Communications Act—a provision that requires carriers to secure certain customer data.

The FCC issued forfeiture orders claiming that Sprint and T-Mobile (along with every major wireless provider) failed to adequately safeguard "customer proprietary network information"—or CPNI—that is protected by the Communications Act. *See generally* 47 U.S.C. § 222. It also concluded that this failure was not just a single violation but dozens of separate "continuing violations"—allowing the agency to multiply the statutory maximum penalty from about $2 million per wireless provider to nearly *$100 million* in collective liability for T-Mobile and Sprint. The agency called that approach "conservative" and claimed that it could have interpreted the Act even more expansively to impose *trillions* of dollars in penalties, notwithstanding the statutory penalty cap of about $2 million. *See* 47 U.S.C. § 503(b)(2)(B). Sprint and T-Mobile challenged the FCC's orders in the D.C. Circuit.

The case before the D.C. Circuit thus turned on two clean statutory questions.[3] First, did the information at issue fall within the statutory definition of CPNI under Section 222(h)(1) of the Communications Act? And if so, did Sprint and T-Mobile commit one "continuing violation" or dozens of them under Section 503(b)(2)(B) of the Communications Act?

The D.C. Circuit erred in answering both questions because it rejected this Court's instruction to adhere to the statutory text enacted by Congress. Those errors present issues of exceptional importance that are worthy of this Court's review. The panel's misinterpretation of Section 222 creates substantial regulatory uncertainty about the FCC's ability to impose onerous common-carrier regulations on non-common-carriers, potentially re-opening a decade-long debate about the regulatory status of broadband data services. And its misinterpretation of the Communications Act's penalty provisions blesses a power-grab by the agency that allows it to skirt completely the strict statutory penalty maximums set by Congress.

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[3] The D.C. Circuit also considered and rejected the same Seventh Amendment claims that this Court addressed in *FCC v. AT&T*.

ARGUMENT

I. THE D.C. CIRCUIT'S INTERPRETATION OF SECTION 222 OF THE COMMUNICATIONS ACT WARRANTS THIS COURT'S REVIEW.

A. The D.C. Circuit's Interpretation Of Section 222 Is Wrong.

The D.C. Circuit upheld the FCC's forfeiture orders against T-Mobile and Sprint based on an expansive, atextual interpretation of Section 222 of the Communications Act. That provision and its implementing regulations govern carriers' practices regarding "customer proprietary network information"—or "CPNI." 47 U.S.C. § 222(h)(1). CPNI is defined, in relevant part, as "information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship." *Ibid.*

The D.C. Circuit held that this provision reaches data passively "generated when customer devices connected to the nearest cell tower in Sprint or T-Mobile's networks," App. 25–26a, even when the location data is not used for "a voice call," App. 27a. That interpretation is wrong because it misconstrues two elements of the CPNI definition.

1. *First*, the D.C. Circuit misinterpreted the clause "solely by virtue of the carrier-customer relationship." 47 U.S.C. § 222(h)(1)(A). "Solely" means "to the exclusion of all else." *Solely*, Merriam-Webster's

Collegiate Dictionary 1118 (10th ed. 1994). Next, "by virtue of" means "by reason of." *By virtue of*, Webster's Third New International Dictionary 307 (1993). And, in "carrier-customer relationship," the word "carrier" refers back to a phrase earlier in the definition: "telecommunications carrier." A "telecommunications carrier" is "any provider of telecommunications services"—but "*only* to the extent that it is engaged in providing telecommunications services." 47 U.S.C. § 153(51) (emphasis added). Thus, information counts as CPNI when it is made available for only one reason: the provision of "telecommunications services," which are the classic common-carrier services regulated under Title II of the Communications Act, like voice calling. If the information was made available for more or different reasons, like providing Title I data services, then it flunks the "solely" requirement.

That text should have been dispositive. All agreed that Sprint and T-Mobile obtained information from customers while providing "*both* telecommunications services (voice calls) *and* information services (internet data)." App. 30–31a (emphasis added). That is, Sprint and T-Mobile obtained the information "by virtue of" *two* relationships: a carrier-customer relationship *and* an information-service-provider-customer relationship. Thus, the information was not obtained "*solely* by virtue of the carrier-customer relationship." 47 U.S.C. § 222(h)(1)(A) (emphasis added).

The D.C. Circuit erred because it failed to heed this text. It held that "the Carriers did not stop being carriers because they were also information-service providers." App. 31a. But that ignores "solely." If Sprint and T-Mobile were "*also* information-service providers," *ibid.*, then they did not obtain the information *solely* as a result of the carrier-customer relationship. And that is true even if they never "stop[ped] being carriers" because the Communications Act clearly states that entities are carriers "*only to the extent*" that they are "providing telecommunications services." 47 U.S.C. § 153(51) (emphasis added). The panel erred because it "read [solely] out of the statute." *Exxon Mobil Corp. v. Corporación Cimex, S. A. (Cuba)*, 146 S. Ct. 1909, 1921 (2026).

2. *Second*, the D.C. Circuit misinterpreted the clause "information that relates to the … location … of use of a telecommunications service." 47 U.S.C. § 222(h)(1)(A). The key word here is "use." "In cases stretching back over a century, this Court has" construed "use" to mean "*active* employment." *Voisine v. United States*, 579 U.S. 686, 692–93 & n.3 (2016) (emphasis added); *see also Dubin v. United States*, 599 U.S. 110, 118 (2023) ("'use' impl[ies] action and implementation," not "passive, passing, or ancillary" (cleaned up)). Reading that term in context here—"use of a telecommunications service"—it is plain that Section 222 reaches only information gathered when a consumer is making, receiving, or engaged in a voice call. That is the point at which a customer actively employs a telecommunications service.

That text should have foreclosed liability against Sprint and T-Mobile. All agree that the information at issue in the FCC's order was generated passively. "[D]evices … stay connected to a carrier's network by periodically registering with the nearest cell tower in the network." App. 6a. Anyone with a mobile phone knows that this process happens automatically without any user input. Under this Court's precedents, the "nonactive nature of this" collection "without … more active employment" does not constitute "use." *Bailey v. United States*, 516 U.S. 137, 149 (1995).

The D.C. Circuit's contrary interpretation cannot be squared with this Court's teachings. The panel did not cite even one of this Court's cases construing "use"—despite having before it a body of precedent "stretching back over a century." *Voisine*, 579 U.S. at 692 n.3. Instead, the court asserted: "In our view, a customer 'uses' a telecommunications service whenever his or her device connects to the carrier's network for the purpose of being able to send and receive calls." App. 28a. But the D.C. Circuit's unsupported "view" does not trump this Court's *precedent*. And the panel's mid-sentence subject change—from "a customer" to "his or her device"—only crystallizes the non-active nature of the information collection. At bottom, "[i]f Congress had intended to deprive 'use' of its active connotations, it could have simply substituted a more appropriate term … to cover the conduct it wished to reach." *Bailey*, 516 U.S. at 148.

The D.C. Circuit's interpretive errors are significant. "Short on textual support," the panel ultimately "over[ode] the words Congress chose" and rejected this Court's "precedent." *Watson v. RNC*, 609 U.S. __, __, slip op. at 9–10 (U.S. June 29, 2026).

B. The D.C. Circuit's Erroneous Interpretation Of Section 222 Is Exceptionally Important And Creates Inter-Circuit Tension.

Not only is the D.C. Circuit's decision wrong, but it also injects nationwide uncertainty into the recently-settled "net neutrality" issue. Because the decision below purports to allow the FCC to treat information derived from data services the same way it treats information derived from voice services, the decision threatens to partially reignite perhaps the single most important regulatory debate for the nation's communications and data providers: whether Internet access service falls under the relatively light regulation of Title I of the Communications Act, or the much heavier hand of legacy common-carrier regulation under Title II of the Act.

That question has a long and tortured history. From "the late 1970's" into the new millennium, the FCC took the position that Internet access service was a lightly regulated non-common-carrier service. *Nat'l Cable & Telecommunications Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, 976 (2005). This Court upheld that interpretation of the Communications Act under the *Chevron* doctrine, *see id.* at 986, which ultimately kicked off a deference-fueled back-and-forth where each partisan change in presidential administration led to the reclassification of Internet access as either a heavily-regulated telecommunications service, *see United States Telecom Ass'n v. FCC*, 825 F.3d 674 (D.C. Cir. 2016) (affirming under *Chevron*), or a lightly-regulated information service, *see Mozilla Corp. v. FCC*, 940 F.3d 1, 17 (D.C. Cir. 2019) (same).

But then, of course, "*Chevron* [wa]s overruled." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). As a result, last year the Sixth Circuit was able to finally end the decade of regulatory chaos by interpreting the language of the statute itself, free of the agency's shifting policy preferences. "Applying *Loper Bright*," that court "end[ed] the FCC's vacillations." *In re MCP No. 185*, 124 F.4th 993, 1000 (6th Cir. 2025). It held that Internet access service is "an information service" under "the best reading of the statute." *Id.* at 997–98 (quoting *Loper Bright*). And with that, the "constant uncertainty and convulsive change" to communications providers' regulatory environment was over. *Loper Bright*, 603 U.S. at 412 (Gorsuch, J., concurring).

The D.C. Circuit's decision undermines that hard-won regulatory certainty and threatens to reignite this conflict. The decision of course does not—and could not—change the regulatory classification of Internet-data service. But it dims the previously bright line between "mutually exclusive," *Mozilla Corp.*, 940 F.3d at 19, telecommunications services and information services—a line clearly drawn in the statute itself. Indeed, contrary to Congress's intent, providers in the D.C. Circuit that offer mobile Internet services alongside telecommunications services will now be "shackl[ed] … with onerous Title II regulation" of their Title I data services under Section 222. *Contra In re MCP No. 185*, 124 F.4th at 1004. Outside that Circuit, providers must choose to operate either pursuant to Congress's bright-line regulatory dichotomy or the D.C. Circuit's fuzzy in-between holding.

Even that understates the problem because there is also direct inter-Circuit tension on this question. The D.C. Circuit's analysis of Section 222 is out of step with the one other court that has directly considered these issues: the Second Circuit. In a similar posture, that court affirmed an FCC enforcement order by holding that Section 222 reaches not only providers offering both voice (Title II) *and* data (Title I) services—but also providers that serve "*data-only* customers." *Verizon Commc'ns Inc. v. FCC*, 156 F.4th 86, 96 n.9 (2d Cir. 2025) (emphasis added). To conclude that a Title II provision regulating "solely" Title II services somehow reaches the provision of a pure Title I service, the Second Circuit placed unduly broad weight on the statutory phrase "relates to," which is used to describe the types of "information" covered by Section 222. *Id.* at 95–96.[4] The D.C. Circuit, by contrast, rested primarily on the word "use" with almost no analysis of "relates to."

The result is that even among Circuits that are in nominal agreement, there are clear and significant differences in interpretive methodology (which words matter) and in practical import (whether data-only customers are covered)—meaning that the rules of the road are different in the Second Circuit than they are in the D.C. Circuit. This kind of circuit-by-circuit uncertainty is difficult for any business. But it is doubly so for nationwide communications networks that must operate in *every* Circuit.

No policy rationale could justify this misreading

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[4] This reading, too, is an erroneous interpretation of the statutory language. *See Chevron USA Inc. v. Plaquemines Par., Louisiana*, 146 S. Ct. 1052, 1060 (2026) ("The ordinary meaning of 'relating to' … is not 'so broad that it is meaningless'").

of the plain statutory text. But the irony of the decision below is that it will not even accomplish the FCC's goal of improving consumer privacy. As then-FCC Commissioner Simington explained in dissent, the FCC's—and now D.C. Circuit's—expansive interpretation of Section 222 has "effectively choked off" wireless providers from providing location data to pro-consumer third-party services. App. 275a. But location data—and the demand for location-based services—is not going anywhere. The difference now is that instead of being provided by legitimate, above-board wireless providers, location data will flow between "any of thousands of unregulated apps" that track users "at every moment the device is on" and that fall outside the ambit of Section 222 altogether. *Id.* at 274–75a; *see also id.* at 267a (dissenting statement of then-Commissioner Carr) ("That is not to say that [location-based service] providers have ended their operations. They have simply shifted to obtaining this same type of location information from other types of entities."). Ignoring that reality makes privacy outcomes worse—not better.

The D.C. Circuit's misinterpretation of Section 222 warrants this Court's review.

II. THE D.C. CIRCUIT'S INTERPRETATION OF THE COMMUNICATIONS ACT'S PENALTY CAP WARRANTS THIS COURT'S REVIEW.

A. The D.C. Circuit's Interpretation Of The Statutory Penalty Cap Is Wrong.

Congress gave the FCC the power to seek regulatory penalties under the Communications Act but subjected this authority to clear and specific limits. The Act provides that "for any continuing violation," a forfeiture against a common carrier "shall not exceed a total of $1,000,000 for any single act or failure to act." 47 U.S.C. § 503(b)(2)(B). Adjusted for inflation, that figure was about $2 million when the FCC issued its forfeiture orders against Sprint and T-Mobile. *See Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 34 FCC Rcd. 12824, 12828 (2019). Yet here, the Commission issued a forfeiture for $80 million against T-Mobile and $12 million against Sprint. App. 156a, 261–62a. If that seems off, it is.

The FCC rule at issue here—47 C.F.R. § 64.2010(a)—imposes a single, ongoing duty. A carrier must "take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI." 47 C.F.R. § 64.2010(a). If a carrier does not take such reasonable measures, it has violated the regulation. And if that violation continues for an extended period, the statute provides that the FCC may seek a penalty for "each day of a continuing violation." 47 U.S.C. § 503(b)(2)(B). However, the total amount for a continuing violation "shall not exceed a total of" the $2 million statutory maximum. *Ibid.* So the FCC's finding that T-Mobile and Sprint violated their singular duty under Section 64.2010 should have capped out at $2 million per company.

The FCC exceeded that statutory cap through a *sub silentio* invocation of *Chevron* deference. It took the position that T-Mobile continuously violated Section 64.2010(a) 81 times and Sprint 11 times—"one for each ongoing relationship with a third-party … that had access to [the respective carrier's] customer location information." App. 123a, 235–36a. But neither Section 64.2010(a) of the FCC's rules nor Section 503 of the statute say anything about "each ongoing relationship." Instead, the former establishes a singular systemic duty, and the latter caps the penalty amount for single, continuing violations. To get around that textual problem, the FCC conducted what was, in essence, a two-step *Chevron* analysis. First, it purported to find statutory ambiguity, arguing that "section 503(b)" does not "speak to … the calculation of the number of violations." App. 126a, 238a. Second, from that ambiguity, it divined "discretion" and deemed its approach "reasonable." App. 127–28a.

The D.C. Circuit blessed that *Chevron*-in-disguise approach. It opined that "it was reasonable for the Commission to conclude that each third-party relationship … without adequate safeguards formed the basis of a distinct violation." App. 38a. The panel did not pause at any point to consider the text of the statute or the underlying regulation. *See id.* at 37–38a. It instead invoked the kinds of policy-laden rationales that were commonplace when deference carried the day. The FCC's interpretation "was reasonable," the D.C. Circuit found, because "every [third party] that accessed customer data in the absence of reasonable safeguards posed an independent danger of CPNI misuse." *Id.* at 38a. But missing from that assessment of danger is its connection to the underlying text. The "policy concerns" to which the panel deferred about the danger of CPNI misuse "cannot trump the best interpretation of the statutory text." *M & K Emp. Sols., LLC v. Tr. of IAM Nat'l Pension Fund*, 146 S. Ct. 1224, 1233 (2026).

At bottom, the D.C. Circuit disregarded this Court's teaching that judges are not to "throw up their hands" and "declar[e]" the Government's "reading 'permissible.'" *Loper Bright*, 603 U.S. at 400. It is, instead, the court's duty to "say what the law is." *Id.* at 385 (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

B. The D.C. Circuit's Erroneous Interpretation Of The Statutory Penalty Cap Is Exceptionally Important And Creates Inter-Circuit Tension.

Sprint and T-Mobile are right that the D.C. Circuit's analysis of the FCC's penalty provision is part of a disturbing trend of "*Loper Bright* avoidance" in the lower courts. Pet. 33–34 (quoting *Am. Gas Ass'n v. U.S. Dep't of Energy*, 157 F.4th 476, 506 (D.C. Cir. 2025) (Rao, J., dissenting)).

Zombified *Chevron* deference is especially pernicious in the penal context. Here, the FCC has claimed unfettered discretion to extract tens of millions of dollars in penalties—a practice that began years ago under *Chevron* and has not changed in the slightest since *Loper Bright*. This is the quintessential context in which courts should decline "to place a finger on the scale of justice in favor of the most powerful of powerful litigants, the federal government." *Loper Bright*, 603 U.S. at 433; *accord Sackett v. EPA*, 598 U.S. 651, 660 (2023) (observing that "expansive interpretations of the term 'violation'" can render "civil penalties … nearly as crushing as … criminal" punishment).

This case shows the kind of mischief that such deference engenders. The agency was faced with a seemingly ironclad statutory command: the penalty for "*any* continuing violation *shall not exceed*" a specified amount. 47 U.S.C. § 503(b)(2)(B) (emphasis added). To pass through that statutory wall, the Commission "simply … disaggregat[ed] an 'act' into its individual constituent parts … to arrive at whatever forfeiture amount suits a preordained outcome." App. 169a, 274a (dissenting statement of Commissioner Simington).

Indeed, the agency claimed that its penalty approach was "eminently *conservative*" because it "could well have chosen" to multiply the statutory maximum by "the tens of millions of consumers" whose information was "vulnerable" (not accessed)—effectively raising the statutory cap not just to billions but to trillions of dollars. App. 128a, 240a (emphasis in original). The claim that Executive grace is the only thing standing between a regulated party and *trillions* of dollars in penalties shows exactly why this Court's intervention is needed.

The FCC's assertion of nearly limitless authority in the forfeiture context is not new. The agency has long played fast and loose with the seemingly clear limits on its regulatory power contained in the Communications Act. For decades, the FCC has claimed the power to destroy any business on a whim by slicing and dicing a single violation into an arbitrary array of "continuing" sub-violations. That has turned every misstep into a potentially existential enforcement action—and has given the FCC a powerful tool to coerce compliance, no matter how flawed its legal arguments.[5]

Consider a few examples. In one action, the agency claimed that a single failure to "publicly disclose … information regarding the provision of" a company's "services" could be multiplied by the millions of customers that used those services, rendering the company liable for "an astronomical figure." *See, e.g.*, *AT&T Mobility, LLC*, Notice of Apparent Liability for Forfeiture and Order, 30 F.C.C. Rcd. 6613, ¶¶ 34–35, 38 (2015). Claiming to "moderate [its] punishment in a reasonable manner," the agency proposed a penalty for this single continuing act of a mere *$100 million*, or more than 50 times the limit set by Congress. *Id.* ¶ 38. Similarly, in an enforcement proceeding that settled, the FCC took the view that the launch of a single satellite with a mistuned radio became 324 potential violations over the course of 13 days—one for every transmission sent to the satellite. *In the Matter of L3 Harris Technologies*, File No.: EB-SED-19-00028645, Consent Decree (rel. Dec. 20, 2019).

In another action, the Commission found that a carrier failed to adequately protect CPNI and claimed authority to apply a penalty for "[e]ach document" that was inadequately protected—a calculation that "would result in a proposed forfeiture approaching *$9 billion*." *Terracom, Inc. & Yourtel Am., Inc.*, Notice of

[5] As this Court noted in *FCC v. AT&T*, the D.C. Circuit has long held that in order to seek appellate review of FCC enforcement orders, targets of those orders must first pay whatever penalty the Commission purports to impose. 146 S.Ct. at 1431 & n.4. This has given the FCC the ability to effectively bar the courthouse door and insulate its decisions from review by imposing penalties that targets simply cannot afford to pay.

Apparent Liability for Forfeiture, 29 FCC Rcd. 13325, ¶¶ 50, 52 (2014) (emphasis added); *see ibid.* (calling this approach "conservative[ ]"). A dissenting Commissioner who later went on to head the agency opined that "[i]t strains credulity to think that Congress intended such massive potential liability for telecommunications carriers." *Id.* at Dissenting Statement of Commissioner Ajit Pai (quotations omitted).

There is scant judicial precedent construing the FCC's penal authority, as parties are understandably hesitant to risk crushing liability. But the precedent that does exist disagrees with the D.C. Circuit's deferential approach. In a case predating *Chevron*, the FCC brought an enforcement action against a radio station for failure to notify an organization of "personal attack[s]" levied against it during one of the station's broadcasts. *United States v. WIYN Radio, Inc.*, 614 F.2d 495, 496 (5th Cir. 1980). Although the rule imposed only one notification obligation and the violation concerned one broadcast, the FCC took the position that "each day on which [the radio station] failed to provide … the required notification constituted an independent violation of the personal attack rule." *Id.* at 497. The Fifth Circuit rejected that theory. It held that the rule imposed "but a single, pointed duty, admitting of only a single dereliction." *Ibid.* To accept the FCC's contrary interpretation, the Fifth Circuit explained, would create "ludicrous" and "draconian" powers of which Congress did not "intend[ ] to invest the Commission." *Id.* at 497–98.

The Court should grant this case to clarify that the Fifth Circuit's careful adherence to the statutory language—and not the D.C. Circuit's *Chevron*-like deference to the agency's judgment—is the proper way to construe the Communications Act's forfeiture provisions. The agency's claimed ability to leverage its "discretion" to threaten (or impose) staggering forfeitures that circumvent the statutory maximums is exactly why this Court has eschewed judicial deference that "creates a 'systematic judicial bias in favor of the federal government, the most powerful of parties, and against everyone else.'" *Kisor v. Wilkie*, 588 U.S. 558, 592 (2019) (Gorsuch, J., concurring). "[I]f the rule of law means anything, it means that we are governed by the public meaning of the words found in statutes and regulations." *Id.* at 619.

None of this is to say that the FCC should not seek to deal with violations of the law. It should. But when it does, it too must comply with the law. And for too long, the agency has hidden behind *Chevron*-style deference to evade the clear caps Congress put on the penalties the FCC is allowed to seek. The agency's assertion in this case that it could impose trillions of dollars in penalties if it chose to do so makes this a perfect vehicle to consider this exceptionally important issue, well worthy of this Court's review.

CONCLUSION

The Court should grant the petition.

July 27, 2026

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