May 11, 2021

Administrative Conference of the United States
1120 20th St NW, Suite 706 South
Washington, DC 20036

Attn: Cary Coglianese and Danielle A. Schulkin

To the Administrative Conference of the United States:

We, the 84 undersigned organizations and individuals, write to express our concern regarding your proposed recommendations in the project about “Mass, Computer-Generated, and Fraudulent Comments.”

We are troubled that your recommendations would be interpreted by agencies to treat or disregard bona fide mass comments as an undue burden and to display such comments in a way that could easily obscure the number of individuals who have made their voices heard by expressing similar sentiments in comments.

Many of our organizations work to raise awareness of federal rulemakings and to lower the barriers to public participation in these administrative processes. We provide members of the general public with easy ways to navigate federal agencies’ comment processes and make their voices heard in those proceedings.

Comments that agencies receive from the public at large, in response to awareness-raising efforts and general public participation in these important proceedings, are not the same as fraudulent and computer-generated comments. We are encouraged that ACUS has made this clear in its most recent recommendations draft, noting that the Conference “does not mean to suggest that these comments are to be addressed in the same way,” nor “does it intend to imply that the widespread participation in the rulemaking process, including via mass comments, is problematic.”

Attempting to navigate federal agencies’ commenting processes is a challenge for the vast majority of the public, but we believe that the public deserves the chance to overcome those barriers and make their voices heard and that our nation’s laws demand that they be given this opportunity. It is especially critical that Black, Latinx, Indigenous and other communities of color — who are disproportionately...
impacted by harmful and secretive changes made to federal policies — have an opportunity to comment on these pending rule changes.

We understand that some of the most popular proceedings can garner millions of comments, and we agree with ACUS that agencies should have the proper tools to analyze these comments. However, making value judgments that categorize public comments as a problem or somehow disruptive to the rulemaking process runs counter to our democratic process and can only result in disempowering the communities most impacted by these rule changes. We urge the committee to reject any suggestions that would encourage alternate ways to display comments in ways that discount the value of those comments, particularly those from grassroots activists and ordinary members of the public engaging in civic participation.5

Your committee’s recommendations should reflect the importance of public comments, even when they are received in great quantity electronically and reject any recommendations that would silence the voices of millions of people of color who are systemically kept from participating in other formal policy-making processes.

People deserve to have their voices heard in federal rulemaking. We strongly urge that your recommendations clearly differentiate between fraudulent comments and genuine mass comments from an engaged public and squarely focus on the technical tools necessary for agencies to evaluate their respective dockets.

Sincerely,

ORGANIZATIONS
Access Now
Alliance for Community Media
American Civil Liberties Union
Americans for Tax Fairness
The Arc of the United States
Benton Institute for Broadband & Society
Better Markets
California LGBTQ Health and Human Services Network
Center for Disability Rights
Center for Economic Integrity
Center for Rural Strategies
Common Cause
Consumer Action
Consumers for Auto Reliability and Safety
Defending Rights & Dissent

5 Id. at 7, Rec. 12.
Electronic Frontier Foundation
Empire Justice Center
Equal Rights Advocates
Fight for the Future
Fineman Poliner LLP
Food & Water Watch
Free Press Action
Friends of the Earth
Greenpeace US
INCOMPAS
League of American Bicyclists
Libraries Without Borders
Long Term Care Community Coalition
Mazzoni Center
MENTOR National
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Coalition for the Homeless
National Community Action Partnership
National Consumer Law Center, on behalf of its low-income clients
The National Consumer Voice for Quality Long-Term Care
National Employment Law Project
National Equality Action Team (NEAT)
National Health Law Program
National Hispanic Media Coalition
National Housing Law Project
National Housing Resource Center
Native Public Media
NTEN
Oasis Legal Services
Open Technology Institute
Open The Government
PeopleForBikes
Planned Parenthood Federation of America
Progressive Leadership Alliance of Nevada
Public Citizen, Inc.
Public Justice Center
Public Knowledge
Revolving Door Project
SC Appleseed Legal Justice Center
Strategies for Youth
Union of Concerned Scientists
United Church of Christ, OC Inc.
Virginia Citizens Consumer Council
Wild Cat Consulting
Woodstock Institute
Working Narratives
Worth Rises
X-Lab
YWCA USA

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