

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.”<sup>1</sup> 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.<sup>2</sup>

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,”<sup>3</sup> nor “does it intend to imply that the widespread participation in the rulemaking process, including via mass comments, is problematic.”<sup>4</sup>

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

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<sup>1</sup> See Administrative Conference of the United States, “Mass, Computer-Generated, and Fraudulent Comments,” <https://www.acus.gov/research-projects/mass-computer-generated-and-fraudulent-comments> (last visited May 10, 2021).

<sup>2</sup> See Administrative Conference of the United States, “Mass, Computer-Generated, and Fraudulent Comments,” Committee on Rulemaking, Proposed Recommendations for Committee at 5, Rec. 2 (May 11, 2021), <https://www.acus.gov/sites/default/files/documents/Mass%20Computer-Generated%20and%20Fraudulent%20Comments%20Recommendations%20Draft%20%2805-07-2021%29.pdf> (“ACUS May 11 Proposed Recommendations”).

<sup>3</sup> ACUS May 11 Proposed Recommendations at 2.

<sup>4</sup> *Id.* at 3-4.

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.<sup>5</sup>

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

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<sup>5</sup> *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

INDIVIDUALS

Alicia Stott  
Allison Saft  
Amy Beth Clark  
Amy Kroin  
Professor Cathy Lesser Mansfield  
Harper Jean Tobin  
Jane Santoni  
Joe A. Kunzler  
Kitty Klitzke  
Lauren B.  
Leslie Dara Baldwin  
Melissa C. Goemann  
Melissa Taylor  
Michelle Harati  
Nicholas DeSarno  
Phyllis Lawrence  
Russell Thompson IV  
Timothy Stoltzfus Jost  
Tom Donnelly