Dear Chairman Pai,

This is a comment about fraudulent comments.

As the Commission has been made aware,[[1]](#footnote-1) an astounding number of the comments submitted during this proceeding[[2]](#footnote-2) were submitted fraudulently. Millions of the comments in the record were apparently submitted by human-like bots and fake email addresses.[[3]](#footnote-3) According to the Pew Research Center,

Some 6% of the [22 million] comments posted were unique submissions. Six of the seven most-common submissions in the remaining 94% argued against net neutrality and can be traced back to websites of a handful of organizations. . . . Many submissions seemed to include false or misleading personal information. . . . **There is clear evidence of organized campaigns to flood the comments with repeated messages. . . . Often, thousands of comments were submitted at precisely the same moment.**[[4]](#footnote-4)

Another research group analyzed the net neutrality comments and concluded that even comments that appear unique at first blush may nevertheless be fraudulent duplicates of already-submitted comments.[[5]](#footnote-5) Sophisticated bots are capable of crafting permutations on comments by altering the semantic building blocks of those comments. For example, by substituting the phrase “I’m a voter worried about” for the similar phrase “I’d like to comment on” or “In the matter of,” bots can artificially construct comments that appear unique and distinctly human.[[6]](#footnote-6)

This technological development poses grave risks to the legitimacy of this proceeding and the administrative rulemaking process more broadly. Notice-and-comment rulemaking is perhaps the Administrative Procedure Act’s “most important advance.”[[7]](#footnote-7) The APA, and the notice-and-comment procedure in particular, reflects our nation’s democratic commitment “to avoid dictatorship and central planning.”[[8]](#footnote-8) It represents the citizen’s “right to be taken seriously.”[[9]](#footnote-9) That citizens’ voices could be suppressed by bots with mail merge and language-manipulation techniques is an affront to basic democracy. Such a fundamental attack on democratic engagement in the rulemaking process is of a piece with foreign meddling in U.S. elections.[[10]](#footnote-10)

Substance aside, it is incumbent on the Commission to jealously guard the integrity of the rulemaking process. Whatever its conclusion with respect to net neutrality (or “internet freedom”), the Commission’s concise general statement of basis and purpose should address the pervasiveness and the content of apparently fraudulent comments. It should estimate the number and origin of fraudulent comments received and summarize the positions taken in those comments. Additionally and separately, the Commission should identify, the best it can, the comments that are apparently legitimate and summarize the positions taken in those comments. If it cites figures in its concise general statement, it should disaggregate fraudulent and legitimate comments and account for the disparity. When determining whether to respond to “substantial” comments in its concise general statement[[11]](#footnote-11) the Commission should take special care to consider the concerns and rationales presented by legitimate commenters.

A decision based on anything short of those explicit considerations would be arbitrary and capricious. The Commission must ensure that “the right to be taken seriously”[[12]](#footnote-12) includes the right for a citizen to be taken more seriously than a robot.

By and large, administrative migration to an electronic format has been a healthy development: it has increased access and transparency in the rulemaking process. But it comes with special risks. we urge the Commission to investigate and account for fraudulent interference in the comment process for this proceeding.

Respectfully,

Paul A. Hoversten

Brett J. Frazer

\*Please consider the content of each of my cited sources to be incorporated by reference to the administrative record.

1. Eric Schneiderman, *An Open Letter to the FCC*, Medium (Nov. 21, 2017), <https://medium.com/@AGSchneiderman/an-open-letter-to-the-fcc-b867a763850a>; *see* CTIA *et al.*, Opposition to Motion for Extension of Time, WC Docket No. 17-108 (filed Aug. 10, 2017). [↑](#footnote-ref-1)
2. *Restoring Internet Freedom*, WC Docket No. 17-108. [↑](#footnote-ref-2)
3. *See* Mike Snider, *Net neutrality comments mostly came from bots and fake email addresses, Pew finds*, USA Today (Nov. 29, 2017, 10:05 A.M.), <https://www.usatoday.com/story/tech/talkingtech/2017/11/29/net-neutrality-comments-mostly-came-bots-and-fake-email-addresses-pew-finds/904439001/>; Issie Lapowsky, *Bogus Emails and* Bee Movie*: Digging into the FCC’s Broken Net Neutrality Comments*, Wired (Nov. 29, 10:00 A.M.), https://www.wired.com/story/fcc-net-neutrality-comment-analysis-fake-emails/; Cecilia Kang, *Net Neutrality Hits a Nerve, Eliciting Tense Reactions*, N.Y. Times (Nov. 28, 2017), <https://www.nytimes.com/2017/11/28/technology/net-neutrality-reaction.html>; Brian Fung, *FCC net neutrality process ‘corrupted’ by fake comments and vanishing consumer complaints, officials say*, Wash. Post (Nov. 24, 2017), <https://www.washingtonpost.com/news/the-switch/wp/2017/11/24/fcc-net-neutrality-process-corrupted-by-fake-comments-and-vanishing-consumer-complaints-officials-say/?utm_term=.9db44d7828fa>; Graham Lanktree, *Fake Americans Are Influencing the Debate over Net Neutrality, Says New York’s Attorney General*, Newsweek (Nov. 22, 2017, 7:50 A.M.), <http://www.newsweek.com/bots-influencing-debate-over-net-neutrality-says-new-york-attorney-general-719454>; *Human-Like Bots Infilitrate* [sic] *U.S. Lawmaking Process*, FiscalNote (Nov. 13, 2017), <https://fiscalnote.com/2017/11/13/human-like-bots-infilitrate-u-s-lawmaking-process/>. [↑](#footnote-ref-3)
4. Paul Hitlin, Kenneth Olmstead, & Skye Toor, *Public Comments to the Federal Communications Commission About Net Neutrality Contain Many Inaccuracies and Duplicates*, Pew Research Ctr. (Nov. 29, 2017), http://www.pewinternet.org/2017/11/29/public-comments-to-the-federal-communications-commission-about-net-neutrality-contain-many-inaccuracies-and-duplicates/. [↑](#footnote-ref-4)
5. *Human-Like Bots Infilitrate* [sic] *U.S. Lawmaking Process*, *supra* note 3. [↑](#footnote-ref-5)
6. *See id.*  [↑](#footnote-ref-6)
7. George B. Shepherd, *Fierce Compromise: The Administrative Procedure Act Emerges from New Deal Politics*, 90 Nw. U. L. Rev. 1557, 1651 (1996). [↑](#footnote-ref-7)
8. *See id.* at 1678. [↑](#footnote-ref-8)
9. *See* Jonathan Weinberg, *The Right to Be Taken Seriously*, 67 U. Miami L. Rev. 149 (2012). [↑](#footnote-ref-9)
10. *See Russian Hacking and Influence in the U.S. Election*, N.Y. Times (Dec. 1, 2017), https://www.nytimes.com/news-event/russian-election-hacking. [↑](#footnote-ref-10)
11. *See* *United States v. Nova Scotia Food Prod. Corp.*, 568 F.2d 240, 252–53 (2d Cir. 1977) (citing *Assoc. Indus. of N.Y. State v. U.S. Dep’t of Labor*, 487 F.2d 342, 354 (2d Cir. 1973) (Friendly, J., for the court)). [↑](#footnote-ref-11)
12. *See* Weinberg, *supra* note 9. [↑](#footnote-ref-12)