



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

Via Email

December 13, 2017

Chairman Ajit Pai
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Fraudulent Public Comments in Net Neutrality Rulemaking

Dear Chairman Pai:

Widespread reports allege that the Federal Communications Commission (FCC) received millions of comments in its net neutrality rule-making that were submitted under fraudulent or stolen identities. **The FCC has stated that more than 7 million comments used temporary email addresses and more than 400,000 came from a single address in Russia.** I urge you to conduct a full investigation and cooperate with law enforcement to uncover the source of the unauthorized comments. Disregarding consumers' complaints about these comments calls into question the effectiveness of the notice and comment provisions of federal law and the value of public participation in the rule-making process.

I have received complaints from numerous Illinois consumers who have identified comments submitted to the FCC that used their names and addresses without their consent. They are alarmed that their identity was used to voice an opinion to influence public policy without their consent and that the FCC is not investigating the source of these unauthorized comments. The FCC's response to reports of fraudulently submitted comments has been inadequate and fails to resolve consumers' concerns. I am equally alarmed by the FCC's response to allegations that potentially undermine the legitimacy of the rule-making process.

As the Attorney General of the State of Illinois, it is my responsibility to protect the public interest by ensuring that Illinois consumers have access to a transparent and open government. I urge you to adequately respond to the legitimate fears of consumers who feel your comment process was infiltrated by fraudulent comments. I ask you to cooperate with

federal law enforcement to investigate the source of these fraudulent comments, improve the security of your comment system and postpone the net neutrality rulemaking until a thorough investigation has been completed and its findings released to the public. I am also writing to the Federal Bureau of Investigation to request that they investigate these allegations, and I encourage you to fully cooperate with any law enforcement investigation.

Public Confidence in the FCC's Comment Process has been Undermined

Federal law requires the FCC to “give interested persons an opportunity to participate” when it conducts a rule-making. 5 U.S.C. § 553. In its Notice of Proposed Rulemaking (NPRM) on the Matter of Restoring Internet Freedom, WC Docket No. 17-108, the FCC invited public comment on more than 100 specific issues that the proposal raised. In your statement upon the release of the NPRM, you encouraged the public to participate in the rulemaking process, stating that the NPRM “is the start of a new chapter in the public discussion” and recognized that the draft NPRM had already solicited over one million comments before it was officially adopted by the FCC.

Now, Illinois residents are concerned that many of the voices that were raised to the FCC came from fabricated or stolen identities. These comments may have drowned out the legitimate voices of consumers who took the important step to participate by filing comments. Where consumers' actual identities were used without their permission, some feel their identity was used to advocate for a position they do not support. How can consumers be confident that its government is responsive to its views if the agency is so disinterested in the public's true opinions and takes no action when the process has been corrupted?

A Full Investigation by Law Enforcement is Needed

My office believes in an open, honest and accountable government. Transparent governments must work to ensure that public participation in regulatory action is meaningful and worthwhile. And if a deficiency exists in the process for public participation, like the fraudulent comments submitted in this docket, the government must assure the public that their voices did not fall on deaf ears. To do so, the FCC must first understand what circumstances enabled the massive submissions of fraudulent comments.

Today, I am encouraging the Federal Bureau of Investigation to open a full-scale investigation of the attack on the FCC's website and determine the culprits submitting the fraudulent comments. Numerous public entities have provided sufficient evidence to demonstrate the likelihood that a large number of the comments that were received by the FCC do not represent authorized comments by actual individuals. Without a full investigation about how this occurred, there is little hope that it can be prevented in the future. I have received

complaints from Illinois consumers that suggest criminal activity was involved, and I stand ready to share those complaints with you and the FBI, or any other proper law enforcement agency, to further any investigations.

The FCC Must Take Steps to Ensure That its Comment Process is More Secure

Encouraging public participation is essential to an open and transparent government at all levels. Consumers must have confidence that the mechanism to participate is secure and that their true opinion will be heard. The FCC's failure to implement basic validation measures that could help verify that comments are submitted on behalf of real individuals or legitimate advocacy groups undermines that confidence.

Basic steps can be taken to diminish the opportunities for foul play. For example, two-step verification is a standard mechanism to ensure that individual submissions via web forms are generated by live human beings rather than bots. These verification measures must ensure that the system is still accessible to all those that wish to comment, but measures exist that can properly distinguish legitimate commenters from fraudulent ones without significant barriers. The FCC has already implemented two processes for legitimate groups to submit multiple consumer comments at a time that include some verification measures. The security of these processes is equally important to ensure organizations with authorization from individual consumers can submit legitimate comments efficiently. The Commission must improve these mechanisms for providing public comment to prevent additional problems in future rulemakings.

Delay the Net Neutrality Vote

The Commission's responsibility to consider public input must not be ignored. Your office has stated "the Chairman's plan is based on the facts and the law rather than the quantity of comments."¹ This is insufficient. Given the importance and prominence of the net neutrality debate, the Commission must take the time to sort through the comments and determine where public opinion truly lies on this issue. The irony should not be lost that consumers are worried that the FCC is not listening to their concerns about how the internet was used to improperly influence the opinion of a government agency that is considering an order that has the potential to drastically change the way the internet – the modern day public square – operates.

Regardless of one's true views on the Restoring Internet Freedom Order, it is vitally important that the American public's voice is heard.

¹ Office of the Chairman, "Myth vs. Fact: Setting the Record Straight on Chairman Pai's Restoring Internet Freedom Order," Nov. 28, 2017, available at: <https://www.fcc.gov/document/myth-vs-fact-chairman-pais-restoring-internet-freedom-order>.

Sincerely,

A handwritten signature in black ink, reading "Lisa Madigan". The signature is written in a cursive style with a horizontal line underneath.

LISA MADIGAN
Illinois Attorney General

CC: Commissioner Brendan Carr
Commissioner Mignon Clyburn
Commissioner Michael O'Rielly
Commission Jessica Rosenworcel