

Opening Statement of Senator Tom Carper
“Review of E-Rulemaking Comment Systems”

October 24, 2019

Thank you, Mr. Chairman, for holding this hearing today and for the work you and your staff did on the report we released today detailing a number of serious problems in agency rulemaking processes.

I often say that everything I do I know I can do better. When things aren't perfect, as elected officials, we have an obligation to improve them. I can think of few more worthy causes than ensuring that the American people can make their voices heard when an agency is considering a rule or regulation of interest to them.

Major rulemaking agencies like the FCC, EPA, and others play a vitally important role. After those of us in Congress write bills and the President signs them into law, we rely on these agencies to make our work real and put new policies into effect. To do this, they need feedback from the people a new rule might impact.

Our rulemaking process today is very open. Anyone seeking to weigh in on a proposed rule can go online to Regulations.gov or one of the handful of other federal regulatory web sites to suggest an alternative approach, or even just register their support or opposition to what's being considered. Nobody needs to hire a lawyer or a lobbyist to have their voice heard, and that's exactly as it should be.

But as our report lays out, the open nature of our rulemaking process leaves it vulnerable to abuse.

Recent high-profile rulemakings have unfortunately become yet another forum for the kind of heated and negative political debates we've been having in our country in recent years. Someone who goes online today to learn more about the status of a rule they care about may find among the filings comments laced with profanity, abuse, and even threats against agency personnel and leadership.

Even more troubling is the fact that the open nature of our rulemaking process has created an opportunity for interest groups or even hostile foreign governments to tilt proceedings in their favor.

An October 3rd *BuzzFeed* article details how a telecommunications industry-backed group appears to have orchestrated the submission of more than 1.5 million fake comments in support of the FCC's 2017 effort to overturn the Commission's "Net Neutrality" rules.

In addition, a significant number of comments filed at the FCC in 2017 have been traced to email addresses in Russia.

This is extremely troubling. Our constituents deserve to know that agency rulemakings – whether they agree with the final decision or not – have been conducted with their interests in mind, not those of well-funded groups or hackers seeking to make mischief.

It's my hope that this hearing today can start a conversation about the steps rulemaking agencies and Congress can do to restore confidence in the federal rulemaking process. Our report points to some technological and policy changes agencies can take now, likely without new legislation. I look forward to hearing from our witnesses about what we can do to help.

I also hope the attention that's been called to this issue in recent months will result in consequences for anyone found to have improperly interfered in agency rulemakings. I think that will send an important message to others that the kind of fraud *BuzzFeed* and others have reported on will not be tolerated.