

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
DISSENTING**

Re: *Nicholas Confessore On Request for Inspection of Records, FOIA Control No. 2017-764, Jeremy Singer-Vine On Request for Inspection of Records, FOIA Control No. 2018-204, Memorandum Opinion and Order*

What is the Federal Communications Commission hiding?

Since 1946, the Administrative Procedure Act has charged agencies making major policy decisions with the responsibility to open their process to the public. They are required to give “interested persons” an opportunity to voice their opinions, and only after considering these public comments may agencies proceed with proposed policies and adopt new rules.

This system may have served Washington policymaking well for decades, but it is showing its age. In proceedings at this agency and others, the public is increasingly shut out of decision-making by the fraud that is flooding public channels for comment.

You see this every clearly in the FCC’s net neutrality proceeding. Last year, when the agency made the misguided decision to roll back its net neutrality rules, it did so based on a public record littered with problems. While millions of Americans sought to inform the FCC process by filing comments and sharing their deeply-held opinions about internet openness, millions of other filings in the net neutrality docket appear to be the product of fraud. As many as nine and a half million people had their identities stolen and used to file fake comments, which is a crime under both federal and state laws. Nearly eight million comments were filed from e-mail domains associated with FakeMailGenerator.com. On top of this, roughly half a million comments were filed from Russian e-mail addresses.

Something here is rotten—and it’s time for the FCC to come clean.

Regrettably, this agency will not do this on its own. So it falls to those who seek to investigate from outside its walls. To this end, two journalists—from the New York Times and BuzzFeed News—sought to obtain records related to the FCC’s net neutrality record, pursuant to the Freedom of Information Act. With this information, they will have the material they need to review where this fraud in our public record came from, assess who could have orchestrated it, and identify who could have paid for it to occur.

But instead of providing news organizations with the information requested, in this decision the FCC decides to hide behind Freedom of Information Act exemptions and thwart investigative journalism. In doing so, the agency asserts an overbroad claim about the security of its *public* commenting system that sounds no more credible than its earlier and disproven claim that the system was the subject of distributed denial of service attack. It appears this agency is trying to prevent anyone from looking too closely at the mess it made of net neutrality. It is hiding what it knows about the fraud in our record and it is preventing an honest account of its many problems from seeing the light of day. I dissent.