

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 MS. FARINA: First, I want to
3 suggest that there are actually a couple of
4 other types of harm that we should be worried
5 about. Probably more, actually. One is the
6 harm for a named individual who has a comment
7 publicly attributed to them that they may or
8 may not agree with the content of.

9 The second is the harm in terms of
10 public perception of legitimacy of the process,
11 which probably does rest on a misunderstanding
12 that this is like ballot box stuffing. But it
13 is a real harm that we should worry about.

14 But picking up on Ed's point, I
15 think there are two situations in which this
16 might indicate that the identity of the
17 commenter matters to the value of the comment.
18 One is the situation Ed mentioned where what
19 the individual says seems to depend on
20 knowledge they have because of where they are
21 situated. Christina McDonald talked about an
22 example. I'm a rancher on the river and this
23 is how I use the river and this is what this
24 rule would do to me.

25 The other is the case that it is

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 little more majoritarian. Let's say the agency
3 is trying to design a label, a product label as
4 a warning, or a financial form to make sure,
5 and they are looking at different design
6 possibilities. And they put a couple of them
7 out there and they get 300 self-identified
8 consumers who say, "I like version A" and 500
9 who say "I like version B."

10 In both of those kinds of situations
11 it looks like the value of the comment may
12 depend on the person being who they say they
13 are. I'm going to suggest that there is an
14 optic in that. First of all, it is not who
15 they are. You don't care whether it's Cynthia
16 Farina or Michael Herz. You care that we're
17 consumers and not manufacturers, or that we are
18 ranchers. Right?

19 Figuring out who somebody is in the
20 real world is actually more difficult, though I
21 defer to Ed, than figuring out whether they are
22 that person.

23 The other problem with this is
24 notice and comment is a self-selected process.
25 No self-selected process can reliably produce a

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 representative sample of information. That
3 doesn't matter whether you are talking about
4 conventional comments or online comments. It
5 doesn't matter whether you are talking about 20
6 comments or 2 million comments.

7 What I want to suggest, and it a
8 theme of my remarks today, what agencies have
9 to be worried about is verifying information,
10 not identity. And that's probably something
11 you're already doing. But I think we shouldn't
12 get, you know, too caught up in the identity
13 problem.

14 MR. VARONA: Great. Michael?

15 MR. HERZ: So I am not sure I have
16 anything to add about specific harms. I think
17 those are the harms. But to elaborate slightly
18 by saying -- I want to push back a little bit
19 against this term, "fake comments," altogether.
20 In a certain sense, how is a comment fake?
21 It's a comment. It really is. There it is.
22 It has some words. It states a view. It
23 expresses a position. It communicates some
24 information. As far as we know, that is
25 consistent with the views of some person or

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 entity who is behind the comment; right? It's
3 a real comment.

4 A true fake comment, and maybe this
5 happens, the clever thing would be to submit a
6 really terrible comment endorsing the position
7 of your opponent. That would be a fake
8 comment.

9 (Laughter.)

10 And that may happen. Maybe after
11 I've mentioned it, it's going to happen lots.
12 But I don't think it happens and I don't think
13 it's, you know, probably not that meaningful if
14 it does. But that's a "fake comment."

15 These are real comments; they have
16 the wrong names attached to them. As Cynthia
17 suggests, in many instances the name is really
18 irrelevant. It's the substance of the comment.
19 And to the extent the names are relevant, a
20 pseudonymous comment is actually exactly the
21 same as an anonymous comment. It's a comment
22 submitted without a name at all that is
23 evaluated on the basis of the strength of the
24 substance, information, argument, contained
25 within the comment.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 This has come up a couple of times
3 already, anonymous comments -- if really this
4 was a giant problem, we already would be
5 prohibiting anonymous comments. The fact that
6 we don't, in general -- and there are divided
7 views about this and ACUS totally punted on
8 this question in a recommendation a few years
9 ago and said every agency should figure it out
10 for themselves, but should have clear views and
11 have a clear policy, but ACUS didn't share or
12 even hint what the policy might be.

13 But in general, smaller agencies
14 allow them. And the fact that they do, and I
15 could corroborate that, to me suggests that
16 pseudonymous comments, which are not actually
17 that different than their effects, are not
18 quite the calamity that they are claimed to be.

19 MR. COGLIANESE: So I think maybe
20 you're right, Michael, that "fake" is the wrong
21 word. Maybe what we should be talking about is
22 inauthentic comments. And I like that word,
23 because really what I want to do is suggest
24 that there are four problems, each of which
25 begin with the letter I, like inauthentic, that

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 are at issue here. And Cynthia touched on this
3 a bit.

4 Let me just tell you what I think
5 the four I's are: Information, inferences,
6 identities and integrity. So let me take those
7 each briefly in turn.

8 Cynthia touched on the information
9 just a bit, but I want to highlight that is a
10 real concern that could come up with
11 inauthentic comments. That people just make up
12 data, make up information that doesn't really
13 exist, and if that's relied upon by the agency,
14 that's a problem.

15 Fake inferences, the second I,
16 inferences. To the extent that a large number
17 of comments come in that are inauthentic, they
18 may create an inference for the agency about a
19 certain kind of implementation problem for a
20 rule.

21 I will just give you an example
22 going back to a pre-Internet era. The
23 Department of Transportation learned that when
24 they were adopting the passive restraint rule
25 that required things like automatic seatbelts,

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 that a lot of people just cut those seatbelts
3 off or disabled the devices. And a lot of the
4 safety benefits, then, from having them were
5 smaller than would be estimated if you assumed
6 a full compliance rate.

7 And so one could imagine similar
8 context today; other rules where there are
9 inferences about how a rule will be
10 implemented, how it will be complied with,
11 based upon the volume of comments that come in.
12 If those comments are inauthentic, then the
13 wrong inferences could be drawn.

14 The third I is identities, which has
15 already been mentioned. And part of the
16 problem is certainly related to the problem of
17 inferences. If one is taking the comment as
18 more credible because it's identified with
19 someone who is a rancher, let's say, and you
20 think he is identified as a rancher, but is
21 really not, that would be a wrong in inference
22 from a false or inauthentic identity.

23 And I think there is also a concern
24 about privacy here. Whether it is a legal
25 concern or simply a policy or moral concern,

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 much the same with the question about copyright
3 earlier where agencies, if they are posting
4 copyrighted material, are in some sense
5 complicit in a violation of Copyright law. If
6 someone has submitted an inauthentic comment
7 that uses, falsely, someone else's identity,
8 and maybe their personal e-mail address, their
9 actual mailing address or phone number, other
10 personally identifiable information, that is a
11 privacy violation, then, if the Federal
12 Government posts that up on the Internet for
13 everyone to see.

14 Lastly, I'll just say integrity. I
15 think it is hard to estimate and calculate. It
16 maybe that, Michael, you're right, that this
17 isn't so prevalent of a concern about the
18 inauthenticity of comments that it has created
19 an integrity problem. But I do think there is
20 something that is lost once one realized that
21 there is a lot of falsity going on in comments.

22 And I will just speak from one
23 personal experience. I had a class once, very
24 last class. I was teaching at Harvard a class
25 in professional ethics, no less, and the

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 students decided to play a game of Bingo. And
3 they had to be able to be recognized and say
4 some kind of phrase in the course of their
5 comment in class. And suddenly somebody raises
6 his hand and says "Bingo," they've actually
7 won, because each phrases that students had
8 said were there.

9 And I will say that personally, when
10 this happened and I realized that the ruse,
11 that this conversation we had been having for
12 the last 45 minutes had actually been
13 manipulated so that students could game the
14 Bingo board, left me really not only
15 disappointed in the students --

16 (Laughter.)

17 MR. HERZ: You left Harvard then and
18 there.

19 MR. COGLIANESE: That's right. I am
20 now at the University of Pennsylvania and it
21 has never happened.

22 (Laughter.)

23 But it does -- right, exactly. They
24 are much more clever perhaps. But anyway, I do
25 think that that's something we should be aware

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 of. And I think agencies, which may already
3 have so much on their plate that it may be
4 easy, sometimes too easy, to discount the
5 public participation process, I would worry
6 that officials would not get cynical about the
7 public participation, public engagement
8 process, because of the prevalence of
9 inauthenticity.

10 MR. VARONA: Thank you, Cary.
11 Matthew?

12 MR. MINER: So, Cary, it is
13 interesting that you mentioned that about the
14 Bingo. I know we were talking earlier that we
15 went to the same law school and there the
16 professor's comments were the ones that were
17 put on the back of tee shirts. So the students
18 comments really didn't matter. I don't know if
19 you want the professor comments necessarily to
20 go on tee shirts at the end of the semester.

21 So being here from the Department of
22 Justice and the Criminal Division I want to
23 make a couple of higher-level points, because
24 when you comment on what is a fake comment or
25 inauthentic comment in that context, it

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 matters. And I don't want to leave any
3 impressions from the comments that I make today
4 that might be exaggerated in one way or
5 another, or misunderstood.

6 The Department of Justice, of
7 course, wants to support the integrity and
8 operation of Federal Agency rulemaking. But we
9 also want to foster as much as possible robust
10 comment activity in connection with rulemaking,
11 and the First Amendment clearly matters.

12 So nothing that the Department does
13 in this space in terms of looking at any sort
14 of false information, identity theft,
15 obstruction activity, should at any point be
16 intended or viewed in any way to chill
17 legitimate First Amendment activity in the
18 comment process. I think that is key.

19 I also want to make clear that
20 whatever my comments are, they are not speaking
21 as to any individual case or investigation as
22 well, whether it exists or not.

23 But in terms of the fake or
24 inauthentic comment piece and how that impacts
25 the rulemaking process, our perspective is a

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 little bit different. As you evaluate whether
3 there was criminal activity in violation of
4 Federal law, you're looking at a different set
5 of issues beyond whether something is
6 inauthentic, whether it has a particular impact
7 on the rulemaking process, whether anonymity
8 should be used or is allowed, or if someone is
9 simply using the name Joe Smith because they
10 want to maintain anonymity.

11 From a criminal law perspective,
12 mens rea matters. Knowledge, intent. The
13 statutes that would be impacted or be used in
14 any prosecution have elements of intent or
15 willfulness. The Federal False Statement
16 statute requires willfulness and materiality.
17 In terms of obstruction, activity in connection
18 with any agency or administrative process,
19 whether rulemaking or an investigation, there
20 has to be intent in connection with that.

21 And so an inadvertent use of
22 information, something that might happen to be
23 incorrect, something that was not intentional
24 or was isolated, is not going to be of interest
25 to the Department of Justice.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 But with regard to anything that
3 would be intentional, willful, large scale,
4 certainly intended to target identities that
5 were obtained through means that involve
6 hacking efforts or other things that would
7 impact the statutes that are on the books, as
8 well as the Federal False Statements statute,
9 we will look to those if our agency partners do
10 come forward, the FBI and others, and identify
11 cases. But it has to meet a threshold. So we
12 are not interested in policing the range of
13 comments that come in as to whether they are
14 accurate or whether they might be one thing or
15 another.

16 This really goes to the bottom line
17 of the last thing the Department of Justice
18 wants to do is in any way inhibit or chill the
19 First Amendment protected comment activity in
20 rulemaking.

21 MR. VARONA: Thank you, Matthew. So
22 Matthew has opened up the door, after we
23 discussed what fake comments are, to what some
24 of the fixes could be. Before we delve a
25 little bit more deeply into regulatory and

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 other responses to this problem, I wanted to
3 share two excellent questions that were posted
4 to the hashtag. One by Ann Holly. Ann, raise
5 your hand, please.

6 MR. HERZ: She is no longer
7 anonymous.

8 MR. VARONA: How do we maintain
9 public faith --

10 MR. HERZ: That may or may not be
11 Ann Holly.

12 (Laughter.)

13 MR. VARONA: How do we maintain
14 public faith in the rulemaking process when
15 mass comments may have value, but there seems
16 to be an increase in the public assuming mass
17 comments are fake comments?

18 So this is a very nice way of
19 connecting the two panels. How do we preserve
20 public faith should be something that we keep
21 in mind as we continue to talk about this
22 problem.

23 The other excellent question is from
24 a student of mine, Eric Emanuelson. Eric,
25 raise your hand. Eric is right there. He asks

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 this: Whether they are called fake,
3 inauthentic, or otherwise, aren't we talking
4 about fraudulent comments that appropriate a
5 real or made-up identity to promote a
6 viewpoint? And if so, why is this fraud not a
7 big deal?

8 So let's keep that in mind, too.
9 Since we have now a sense as to the harm that
10 is caused by fake comments and what they are,
11 what measures have already been taken by
12 agencies to identify and cull out fake
13 comments? How effective and extensive have
14 those measures been? And let's also keep these
15 two questions in mind about public faith in the
16 process and how fraud figures in. Shall we
17 start again from here? Ed?

18 MR. FELTEN: Sure. So Let me talk a
19 little bit about what one might do technically
20 to try to address these issues. And I think
21 there are a couple of different strands in
22 those questions. One is about how you deal
23 with the possibility of bots that submit large
24 numbers of comments, perhaps fake, perhaps just
25 barely not fake, let's say.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 And there is a cat-and-mouse game
3 that goes on between services and the operators
4 of bots which we see in the social media world
5 and in other areas where essentially bots are
6 detected by looking for certain patterns, by
7 looking for large numbers of inputs that come
8 from a small number of IP addresses in a burst
9 and have some similarities between them.

10 But ultimately it's a cat-and-mouse
11 game between those who are operating the bots
12 and those we want to detect. As the detectors
13 get better, the operators of the bot vary their
14 behavior, they vary the content, they spread
15 out their activity over time, and they spread
16 it out over different IP addresses and
17 locations and it might become more difficult to
18 deal with it. But it is a battle that is
19 probably worth fighting to at least put some
20 uncertainty into the bot operators' minds about
21 whether their strategies will succeed.

22 The second strand here is around
23 impersonation and what you can do about
24 identity impersonation. And clearly, one thing
25 you can do is just say: Hey, if you want to

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 submit a comment and without putting a name or
3 claimed identity on it, we will accept that as
4 an anonymous comment. But if you want to claim
5 identity, you might say, then you need to
6 provide some evidence.

7 And here now you are talking about
8 the several technical methods available to you
9 that are used by the big online services, the
10 Facebooks and Googles of the world, to try to
11 authenticate identity.

12 So they rely on things like
13 passwords. Sometimes accounts are linked to
14 real-world identity via something like a mobile
15 phone account. It's not too difficult to
16 verify that someone had access to a particular
17 mobile phone and the identity of the owner of
18 that phone is known or knowable. So there are
19 means that can be used like that.

20 And then finally, even those can
21 have limited effectiveness in practice. And so
22 the online services rely to a large extent on
23 machine-learning-based approaches where they
24 look at a lot of the signals that are available
25 to them to try to detect activity or user

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 sessions that are more likely to be -- that
3 look funny, that are more likely to involve
4 impersonation.

5 And here is the big problem from the
6 comment process, is that those services have
7 access to so much more information about what
8 users are doing.

9 So for example, if I were to use my
10 Facebook account from here, it might look odd
11 that I am accessing the service from
12 Washington, D.C., when I'm known to live in New
13 Jersey. But Facebook probably knows that I was
14 using Amtrak WiFi this morning, whereas
15 Regulations.gov, I am almost certain, does not
16 know that.

17 MS. FARINA: My reaction to the
18 whole fake comment phenomenon, which I have to
19 say is largely like pinkeye. It really looks
20 awful, but it is actually not that serious.

21 (Laughter.)

22 And it's not because I think public
23 integrity or public perception is not a problem
24 -- I think it is a very serious problem. We're
25 not talking about that. My experience rooted

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 in the ten years of research that I was part of
3 at Cornell, a multidisciplinary group that
4 included computer information science, worked
5 with real Federal agencies on real rulemaking
6 on a platform that we developed that some of
7 you know called Regulation Room, the sole
8 purpose of which was to try to bring into the
9 rulemaking process the kinds of people we saw
10 who did not participate or did not participate
11 effectively.

12 So we were out there looking for the
13 ranchers, and the consumers who had medical
14 debt, and the small trucking companies.
15 Basically the people who oftentimes not only
16 have a great stake in the rulemaking, but have
17 like a situated knowledge that the Agency might
18 find helpful.

19 We were very careful about what we
20 asked people to provide when they came on to
21 our site. We did not ask for a name. We did
22 ask for an e-mail, because human subjects
23 regulations required us to send the terms and
24 conditions of this research. But you know how
25 easy it is to create an e-mail; right?

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 We always try to ask a brief survey
3 before people start. And what we wanted to
4 know, precisely because a lot of times the
5 value of the comment seemed to depend on the
6 kind of person who was making it, was are you a
7 consumer? Are you a small businessperson? Are
8 you this? Are you that? It was always
9 characteristics that seemed related to the kind
10 of problem and information the agencies effect.

11 And I will tell you people were
12 extraordinarily unwilling to provide that kind
13 of information. You know, it's not a surprise
14 to you to say there is an enormous amount of
15 distrust about government agencies. We were
16 really clear that we weren't an agency. But
17 even so, we couldn't get people to willingly
18 and accurately -- because that's the other
19 thing, sometimes we get a name and we
20 double-check and we find out that this person
21 that had medical bills was actually a creditor
22 or credit agency.

23 So my concern, and I am really glad
24 to hear Michael say it seems to be the
25 direction that the Department of Justice is

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 going -- is the more we try to pin commenters
3 down on who exactly they are out in the real
4 world, we will have a disproportionate effect
5 of dampening exactly the kind of comments we
6 are trying to get into the system.

7 It is not going to be the
8 sophisticated key players who don't want to
9 provide this information. They are providing
10 it already. The agency knows who you are. It
11 is going to be anyone new to the process. And
12 so that's why in my mind I want to think really
13 hard about how much harm is really imposed.
14 The public perception of this is I think a
15 serious harm.

16 I think the only way we ultimately
17 get to that -- well, two ways. One of the ways
18 is we have got to educate the public better
19 that this is not a plebiscite. We all say that
20 in this room. But we know that even very
21 well-educated people don't know that or don't
22 believe that. This is not a ballot box
23 stuffing. It is very different.

24 The other thing we have to do is we
25 have to think about the incentives that are

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 creating this behavior in the first place. And
3 I'm not sure we understand so well yet what the
4 incentives are behind the people who are doing
5 fake comment.

6 If it's to affect the process, the
7 outcome, then more education about the process
8 ought to change the set of incentives; right?
9 If it really needs to get out there, this
10 doesn't help. This doesn't help.

11 If it's something more, you know it
12 is to undermine the legitimacy of the
13 regulatory process, then I think we have got a
14 bigger problem. But I think we should be
15 looking at least in part at why is this
16 happening? What is motivating this behavior?
17 And see if we can shift those incentives,
18 rather than looking primarily at let's make Big
19 Brother ask for more information about people
20 so they know; right? What is Ed doing on
21 Amtrak? That is what these people are afraid
22 of.

23 MR. VARONA: Prior to passing the
24 baton on to Michael, I thought I would
25 highlight Capri in the audience. Capri just

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 reinforced one of Cynthia's points she shared
3 by offering this: If the implication is that
4 the comment is fake because the identity of the
5 person writing it is an imposter, wouldn't this
6 exclude nonexperts from commenting on rules?
7 Why does the identity matter as much and/or
8 more than the substance?

9 So, Michael?

10 MR. HERZ: And I can't really answer
11 Tony's question from a technical point of view.
12 I leave that to Ed and others. But from a
13 lawyerly point of view with an eye on this
14 fraud question, the question really comes down
15 to -- and I want to hear more from Matt on all
16 of this -- is any of this against the law? Is
17 it illegal? Is it fraud or identity theft?
18 Does it violate the APA?

19 When the FCC was being not that
20 helpful to Attorney General Schneiderman, they
21 said, "You haven't even told us what law you
22 think has been broken," and he said, "Criminal
23 impersonation. It's a State law."

24 You know, I don't want to go into
25 detail on any of these, but all of them have

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 some properties to actually identifying that it
3 is a violation of law. To just say fraud,
4 traditional fraud, false statement of material
5 facts he knew was false with the intent to
6 deceive on which there was justifiable reliance
7 that caused injury. In general, injury is
8 meant some tangible harm.

9 I think there is serious question
10 whether these are false statements of material
11 facts. That's what we've been talking about.
12 Does it matter? And that is relevant to 1001
13 also, materiality. I don't have a firm view,
14 but it's arguable it's not material. That is
15 the point some of us have been suggesting.

16 Justifiable reliance that you need
17 for fraud? No hint, I think. You know, in
18 your opening remarks you said that the problem
19 we were worried about is distorting the
20 rulemaking process. I think that was your
21 phrase, distortion. And distortion, that would
22 be reliance; right?

23 And when we talk about what are the
24 harms, what we are ultimately worried about is
25 that the outcome is changed illegitimately.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 And I don't think that has been shown yet.

3 Certainly, it didn't happen in the FCC. There
4 is no hint that the FCC was moved one way or
5 the other by these millions of comments. They
6 were irrelevant to the process, to the outcome.

7 I don't think you can show
8 justifiable reliance and for the same reason
9 it's maybe hard to show injury. If it didn't
10 affect the outcome, how do you show injury?

11 There is very serious legal --
12 approaching this as a lawyer, proving fraud
13 here is hard to do. 1001 has the materiality
14 question, certain questions you intend and
15 injury under the criminal impersonation laws,
16 as well. All of the large agencies have been
17 talking about what is the injury translates to
18 very precise legal questions under all these
19 statutes and the answers are not at all clear.

20 The last thing, of course, is the
21 APA; right? When the FCC stuff hit the
22 newspapers there was a lot of people saying in
23 the newspaper this violates the APA. And it
24 wasn't always fully fleshed out. If you look
25 at the petitions for review that were filed,

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 that is a just a two-pager, the actual
3 petition, they all said: This violates the
4 APA.

5 If you brief the briefs in the
6 challenges to the net neutrality review --
7 repeal, and I haven't looked at all of them,
8 but it is my belief that none of them make an
9 APA argument. That a bunch of very smart
10 lawyers have looked at this and decided it is
11 just not an argument on the APA.

12 Remember, the APA argument has to be
13 not that filing a fake, inauthentic, my word
14 was going to be manufactured -- which captures
15 the inauthentic factor -- comment can't violate
16 the APA. But the APA applies to the agency,
17 not the filer. It has to be something that the
18 agency did in handling those comments that
19 would be APA violation and that is a little
20 tricky concern.

21 So the fact that it's not illegal
22 doesn't mean that it is fine at all. There are
23 lots of legal things that are appalling and
24 problematic. But viewing this from a lawyer's
25 perspective it is not at all clear that there

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 is a crime. And I would love to hear anything
3 that Matt has to say.

4 MR. COGLIANESE: So before we get to
5 the crime, I was just going to take a policy
6 analytic framework here. Much like we are
7 focusing on regulations and a regulation should
8 be designed to address a particular identified
9 problem, I think if we are going to think about
10 solutions in this context, we need to make sure
11 we identify exactly what the problem is.

12 And I think if you go through the
13 four I's that I presented and the problem of
14 fake or inauthentic information, it's not a new
15 problem. Agencies always have to be mindful
16 about what information they are getting in
17 through the comment process. Can they trust
18 it? They should be probing it, testing it, not
19 just simply accepting it at face value.

20 So that is not a new problem. In
21 some ways it is probably not even a very
22 serious problem in this context, when most of
23 the inauthentic comments, as I think was
24 suggested this morning, tend to also be ones
25 that are short, spam-like, postcard-like.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 There is not a lot of information in there. So
3 it is not as if we yet have reached a point
4 where there are 300 pages of really detailed
5 cost and benefit data that are inauthentic.

6 The same thing I think is true with
7 the false or inauthentic inferences. Cynthia
8 is exactly right. This is not a plebiscite, so
9 most agencies aren't drawing, or shouldn't at
10 least be drawing a tremendous inference based
11 upon the number of these brief comments.

12 As I suggested on occasion, and of
13 course I had to go back to an example from the
14 1970s to find one where maybe there would be a
15 valid inference to be drawn from even a large
16 volume of comments about implementation and
17 compliance. But even in those kind of cases,
18 agencies -- it's kind of an old problem -- they
19 need to rely on something more than just the
20 comments, really make sure it's credible.

21 The real problems do come down to
22 the fake identities, and in particular the
23 privacy concerns. I was struck, Cynthia, with
24 your comment about people didn't want to
25 volunteer whether they were even a consumer or

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 not. And what that tells me is that when
3 someone falsely assumes someone else's identity
4 and puts that into the record, that is
5 something that we ought to be taking very
6 seriously.

7 If people don't even voluntarily
8 want to give up whether they're a consumer or
9 not, we shouldn't have agencies spreading out
10 personal information.

11 By the way, this is not just limited
12 to the context of rulemaking. Obviously the
13 display of these comments on Regulations.gov
14 does matter. But there is a story in the
15 papers about some fake constituent letters that
16 are being sent in Missouri of late, just a
17 story in the last week. And maybe because
18 legislators do try to draw inferences about the
19 volume of comments, that is where the bigger
20 problem would be.

21 Lastly, this is about solutions. I
22 don't understand what the resistance is to
23 using CAPTCHA, and maybe we could have a
24 discussion about that. But it seems to me that
25 we shouldn't necessarily be saying: Oh, gee,

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 will there be any barrier to public
3 participation? But look at this against the
4 alternative which years ago would be having to
5 write a letter, seal it in an envelope, and put
6 it in the mailbox. Against that, how hard is
7 CAPTCHA?

8 And if a lot of the fake comments
9 come in from bots, then it would seem to me if
10 CAPTCHA is effective, that that could be a very
11 sensible and easy solution for when this
12 arises.

13 MR. MINER: I don't want to
14 disappoint, given that you have a little bit of
15 a billet here, but I probably will. But the
16 question was does any of this violate the law
17 in sort of a broad question? And if you think
18 about that, there is the "this," and what is
19 the "this," and the facts that are tied to
20 that, as well as the law. And whether we are
21 talking about the Federal False Statement
22 statute, or whether you're talking about the
23 obstruction statute that relates to Federal
24 Agency proceedings, whether you are talking
25 about aggravated identity theft, each of these

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 statutes -- and Michael is exactly right --
3 they have elements. They have elements that
4 deal with mens rea, they have elements that
5 deal with materiality, and the facts would have
6 to align.

7 And I'm not going to go through the
8 particulars of any specific rulemaking and the
9 comment activity there, because I don't think
10 it's appropriate to do so. But can I imagine a
11 set of facts that would align to violate one or
12 more of those statutes if you had a certain
13 type of activity? Absolutely. And that would
14 certainly be the kind of activity that we would
15 want to see, I think, targeted and prosecuted.

16 But in order to prosecute such
17 activity, not only do have to have facts that
18 align with the facts of the statute but you
19 have to be able to prove those facts beyond a
20 reasonable doubt to a jury. And there has to
21 be a level of harm in connection with that to
22 the process such that you -- as you consider
23 the chilling effect on comment activity, is it
24 appropriate for criminal prosecution? So there
25 is discretion on the front edge that would have

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 to go into that decision-making.

3 But having said that, I can sit here
4 and think through some fact scenarios that
5 would, but they would be certainly fairly
6 extreme and criminal in nature.

7 MS. FARINA: I wondered if we could
8 interact a little bit. I know that probably
9 it's frustrating for Justice to sit out there
10 and say don't do this, don't do that.

11 Specifically on the issue of comments being
12 filed in my name, it is not one that I filed.
13 Whether I agree with the substance or not, I
14 don't want it there because I might fear
15 occupational repercussions or reputational
16 repercussions.

17 I thought this morning the policy of
18 agencies to delete the name that is attached to
19 that comment if they are told, "That wasn't my
20 comment" seems to me exactly right. Because
21 like Michael said, the comment is the comment.
22 If it contains a valid helpful point, if
23 doesn't matter whether it was bot or, you know,
24 the New Yorker dog; right? You know that
25 cartoon on the Internet, nobody knows your dog?

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 It doesn't matter where it came from. But the
3 substance of the comment can stay there. But
4 yes, get rid of that name, that attribution.

5 That is one of the reasons why a lot
6 of agencies allow anonymous comments; right?
7 Because they want to take away that fear that
8 people have. That doesn't mean that when what
9 we ought to do is try to use a lot of
10 technology to figure out in the first place
11 whether those comments actually belong to the
12 people that they are attributed to.

13 If we could do that in an
14 unobtrusive way that wouldn't make people more
15 distrustful, that is good. But we would have
16 to take that cost very seriously, I think. It
17 doesn't mean there is nothing that the agency
18 can do, though, if it's brought to their
19 attention.

20 MR. FELTEN: So I want to go to one
21 aspect of the question, which is why does an
22 agency even care who the commenter is? And in
23 many cases a comment might have the same impact
24 or same effect if it comes in or is labeled as
25 anonymous. But there are some cases where a

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 commenter claims by virtue of their identity
3 that they have experience or expertise that is
4 especially relevant to the subject matter of
5 the comment. And then I think we really do
6 care whether they are who they claim to be and
7 whether they do, in fact, have that expertise
8 or experience.

9 And so one way to formulate that is
10 to start by asking is there a claim based on
11 identity that is part of the comment or not?
12 And if not, then maybe we don't need to know
13 and we don't need -- and the public has less of
14 an interest in knowing who the commenter is.

15 I also want to talk about the method
16 for disputing a comment which is put in falsely
17 in your name. And, of course, it's important
18 that you as an individual can protect yourself
19 against a false comment that is filed in your
20 name. But at the same time, it's very common
21 in online forums where there is a way to file a
22 dispute or flag something as being
23 inappropriate or wrong. If those flagging
24 mechanisms get misused and it becomes a form of
25 censorship for someone to file deliberately a

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 fake dispute, and so one needs to be careful
3 not to make the dispute mechanism too powerful.

4 And this is where I would think I
5 would concur with what Cynthia said, that a
6 mechanism that said if someone disputes an
7 identity, maybe just take the identity label
8 off. Because that is a relatively mild step to
9 take that, in most cases, won't really harm the
10 commenter if it is, in fact, a legitimate
11 comment in a fake dispute.

12 MR. VARONA: Funny you should say
13 that, Ed, because a pseudonymous commenter just
14 posted to the hashtag sayings this: In light
15 of concerns discussed, is there an argument for
16 agencies accepting only anonymous comments and
17 declining to solicit or accept any identifying
18 info?

19 Professor Nina Mendelson also
20 posted -- she is not the pseudonymous
21 commenter, by the way -- when we are talking
22 about a comment providing an agency with
23 situated knowledge, isn't the genuine identity
24 a good proxy for genuine information and
25 wouldn't it permit the agency to contact the

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 commenter, as I believe agencies have done in
3 some instances?

4 Professor Mendelson has an
5 additional question, and then we will open it
6 up for more dialogue for just a few minutes,
7 and then we will want your live questions to be
8 asked.

9 So that second question from
10 Professor Mendelson is this: For a highly
11 vulnerable rulemaking, those where the risks of
12 problems seem significant or comment levels are
13 high and where the public is watching closely,
14 should agencies invest the resources in
15 ensuring the comments are what they purport to
16 be? CAPTCHAs, e-mail verification, all with
17 advance notice of the public, of course.

18 So two things: Cost/benefit, which
19 Cynthia has really wonderfully laid out for us
20 and certainly shared more, and pseudonymous
21 anonymous comment values. So why don't we
22 start with Matthew and then come this way.

23 MR. MINER: Well, with regard to the
24 process improvements and whether there should
25 be -- whether you are talking about on the

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 anonymous side or different ways of capturing
3 the information -- I don't want to speak to it
4 just because I don't want any of our agency
5 partners to call saying: Why is the Department
6 of Justice weighing in on our practices? There
7 is an administrative rulemaking dialogue
8 process for that.

9 MR. COGLIANESE: I think the
10 question is the right one. In fact, I want to
11 suggest that these are not costless issues for
12 agencies. And the fact that we may have
13 comments that are generated by canine
14 commenters, let's say, I think that's a real
15 concern just from a resource standpoint,
16 especially if these are voluminous comments.

17 Even as a member of public to try to
18 weigh through a docket on Regulations.gov when
19 there are millions of these -- an easy fix for
20 that, by the way, would be just to flag the
21 size of the file. So if I am going and I want
22 to look at the significant comments, maybe that
23 is a crude approximation, that page length
24 could get me somewhere, or at least I could
25 start there. I can't really sort through right

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 now all of these.

3 So I think there are costs
4 associated with this. I, again, haven't heard
5 any reason why at least starting with CAPTCHA
6 wouldn't be a bad idea.

7 MR. HERZ: Well, the situated
8 knowledge question is for Cynthia. The second
9 pseudonymous question, like Cary, I think yeah,
10 that's exactly the right question. One wants
11 to balance these things. On CAPTCHA, my
12 understanding is, A, it doesn't work as well as
13 it used to. And B, particularly for people who
14 have disabilities, it's a genuine barrier. And
15 those are the two concerns. You lose -- you
16 just are closing it down to some people who are
17 totally legitimate. But it is a technical
18 question. Maybe ask someone else.

19 MS. FARINA: Just briefly on the
20 CAPTCHA, this gets back to my point that I
21 think we need to understand better what is
22 incentivizing these fake comment campaigns. If
23 the incentives are high enough, these people
24 will find a way around CAPTCHA. So there is
25 nothing that is going to be foolproof.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 The situated knowledge point is one
3 that has troubled me a lot. That is really how
4 regulation groups sort of stake their claim to
5 be adding value to the process. We are trying
6 to find the people who, because of their
7 on-the-ground experience, can add to what the
8 agency may know about the facts or ambiguities
9 or enforcement problems or all sorts of things.

10 And that does seem to turn -- and
11 again, I want to emphasize it does not turn on
12 the actual named identity of the person. It
13 turns on the fact that there is a kind of
14 person that they say they are. And that is
15 even harder to figure out than identity.
16 Right? You can't do it automatically.

17 But I think it would be a mistake
18 for us to associate this problem of how do we
19 know that the comment -- that the information
20 is useful because we are not sure of the
21 comment customer? That is not really and
22 specifically a fake comment problem.

23 And I want to come back to the point
24 that the notice and comment process contains no
25 validation in itself that the information you

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 get is accurate, complete, or representative.
3 So in my example of the two, you know, labels
4 or the two forms, you could get 100 percent
5 verification that those 800 people really are
6 who they say they are and they are consumers.
7 But you could not from that, only that, validly
8 infer that you know now what the typical
9 consumer or most lenders, borrowers, would
10 think. You've got to do additional work;
11 right? You have to have carefully constructed
12 focus groups or your surveys.

13 So I was a rancher -- I don't need
14 to tell you. Maybe we don't want to say
15 commenters lie, but commenters present
16 information strategically; right? Their view
17 of the world tends to fit what their preferred
18 regulatory outcome is. But if you had a
19 100 percent verified rancher, you don't know
20 that that experience is typical. So you're
21 always, and I think that is what you are doing
22 now, you're always looking at experts, trade
23 associations, and other kinds of information
24 that comes in. You're verifying the
25 information.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 So, you know, I again come back to I
3 don't think the resources that we have devoted
4 to this problem, and the potential chilling
5 effect it could have on exactly the kind of
6 commenters we are trying to bring into the
7 process, really outweigh the harm that comes
8 from this, with the exception that I think we
9 have to do something about the public
10 perception and legitimacy problem. But none of
11 the solutions we are talking about deal with
12 that.

13 MR. FELTEN: Let me speak to the
14 issue of CAPTCHAs and other sorts of imperfect
15 but maybe useful defense strategies, such as
16 redelimiting comments from particular IP
17 addresses, or IP address ranges, or other
18 things like that. None of these are foolproof.
19 They can all be defeated by sufficiently
20 motivated adversaries.

21 But they can do a lot of good at the
22 margin by raising the cost for an adversary and
23 creating uncertainty for them, so that their
24 cost-benefit calculation might change.

25 In terms of what is the negative

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 impact, the impact on legitimate commenters of
3 particular technologies like this, that is an
4 empirical question and I don't want to
5 pontificate about that from here. But it is a
6 question that has to be answered with facts.

7 But I do think we should not dismiss
8 methods if they are imperfect, but do change
9 the economics for the attacker, which I think
10 many of these things do. And that is why they
11 are used widely in industrial settings that are
12 similar to the sorts of technical tradeoffs
13 that we take here.

14 MR. VARONA: Thank you, Ed. Thank
15 you very much for using the live hashtag back
16 channel, but now it's time for your live
17 questions. We have 10 minutes. Please raise
18 your hand and a staff member will go to you
19 with a mic.

20 PARTICIPANT: Hi, I'm Jamie Connor.
21 I'm a man about town, I guess. This discussion
22 has been very helpful in helping me think
23 through where the problems could be. But it
24 does seem to me in some situations this
25 situated knowledge issue actually could be a

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 significant problem. And most examples that
3 I'm coming up tend to be more State or local
4 government. But for example, D.C. just had a
5 big debate whether they should require tipped
6 employees to be paid minimum wage at a higher
7 rate. And you could imagine a whole lot of
8 people saying, "I'm a waiter and boy, I hate
9 this thing because you are going to cut my
10 income." Or people saying, "Well, I'm a
11 regular customer of payday lenders and I love
12 that I can give cold hard cash for my car
13 title." Or somebody saying, "I used to have an
14 independent trucking company, but your hours of
15 service rules made me go out of business."

16 And those could be phony and if
17 there is collusion between them and the
18 association for the industry that has that
19 perspective, I could see how that actually
20 could end up skewing an outcome. And it's
21 pretty labor intensive to start calling, if you
22 don't have phone numbers, just Fred's Trucking,
23 Minnetonka, Minnesota. Was there ever really
24 such a business? Who knows?

25 MR. VARONA: Two more questions.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 MR. BALLA: Steve Balla from George
3 Washington University. I want to raise an
4 issue that has come up repeatedly across both
5 the panels. So we keep coming back to this
6 point that rulemaking is not a plebiscite. So
7 I want to make an observation and ask a
8 question of the panelists.

9 The question is: Given that, how do
10 we solve the problem? And my observation is
11 that I don't think better civics education is
12 the solution. There's a middleman, so to
13 speak, between the agency and the commenters
14 who might think that this is a plebiscite, and
15 those are the associations and organizations
16 that are sponsoring this kind of mass
17 mobilization.

18 And in interviews with those
19 organizations we're finding that oftentimes
20 their main motivation may not be to have an
21 impact on the rulemaking process, but they see
22 this as a cheap way to identify people who
23 share their organization's point of view that
24 then serves as a gateway to deeper
25 participation.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 So the Sierra Club might see, oh,
3 you are willing to submit and be part of our
4 mass comment campaign. Now let's see if you
5 are willing to host a meeting at your house at
6 some later point in time.

7 So we can do civics education all
8 day and all night, but that is not going to
9 change the incentives that the organizations
10 that are in the middle of this process are
11 feeling and the way in which they are using
12 this process in the context of rulemaking.

13 So just a question: What do we do,
14 if not civics education?

15 MR. VARONA: Great question. A
16 question from the wings? Back there and then
17 we will go to the panel to wrap up.

18 PARTICIPANT: Dave Oscar, Small
19 Business Administration. I am a little bit
20 concerned by the idea that we can resolve some
21 of the fake comment issue by simply striking
22 the name and identifying them as anonymous.
23 Because it would seem that it gives the fake
24 comment the same credence as an anonymous
25 comment. That if we are in a situation where

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 the premise of the comment starts with a
3 falsehood, do we want to treat it in the same
4 way as someone who is at least commenting and
5 saying I don't want to be identified?

6 So is it justifiable for an agency,
7 from an APA point of view, to ignore a fake
8 comment and all the information that may be
9 contained in it based on the idea that it was
10 submitted under the premise of a falsehood?

11 MR. VARONA: Excellent questions.
12 Situated knowledge, comment manipulation and
13 civics, and the legality of all of this. Great
14 questions. Wonderful buffet. Eight minutes.

15 (Laughter.)

16 MR. FELTEN: Let me jump in very
17 quickly on that last question. One way to deal
18 with this scenario is to say when someone
19 submits a comment, they would perhaps by
20 default be anonymous. Not even claim an
21 identity, so they wouldn't be claiming falsely,
22 but are given an option of making a claim that
23 will be verified to some level.

24 So you could just say I am a person,
25 this is the information I want to provide. Or

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 you could say I am this person and the agency
3 would check it. And leave it in the hands of
4 the commenter to decide whether they want their
5 identity to be verified and therefore get the
6 ability to rely on their identity as part of
7 the argument of their comment.

8 MS. FARINA: So Jamie, on the fake
9 comment -- or the situated knowledge, I think
10 the answer is the agency has to cross-check the
11 information. And it doesn't -- that generally
12 seems to be what agencies do; right? They have
13 a lot of forms of input. If information
14 becomes important enough that it really is
15 crucial to the rulemaking, you've got to
16 cross-check it.

17 This is a great idea, if it would
18 work and maybe this would help with that. But
19 I still don't think it changes the problem that
20 you don't -- you can't rely on the information
21 that you get in the comment process without any
22 sort of double-checking.

23 It hard for to me to say, but that
24 is a great point, Steve. And that is why we
25 haven't been able to stop mass commenting and

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 we are not going to stop mass commenting
3 because incentives there on the part of the
4 organizations have, at least if not solely, to
5 affect the outcome. There are many
6 important -- and there has been studies on
7 this -- they are ways to raise money, it's ways
8 to increase membership, it's ways to impress
9 donors and foundations you could deliver a lot
10 of comments. Those are really different kinds
11 of incentives to shift. Fake comments
12 though -- no one will lie with mass comments;
13 right? That's part of what was said this
14 morning.

15 So what we have to understand better
16 I think through the same kind of research that
17 you are doing, we have to try to figure out who
18 to talk to, it's what is the motivation to
19 submit these things? And then we can get to
20 how we change it. And I will let Michael
21 answer the last question.

22 MR. HERZ: A couple of quick
23 comments. One of the thing that all three of
24 these questions pointed out is the reason we're
25 here having this is because of questions of

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 scale. Every issue we've talked about predated
3 e-Rulemaking. It was always possible to send
4 in something saying you were who you were not
5 and I'm sure it happened. It must have
6 happened. And the agencies had to deal with
7 that.

8 What has changed is just the volume;
9 right? So it's a volume question. But nothing
10 -- it's a quantity issue. The quality of the
11 issue where the problem is has always been with
12 us.

13 Secondly, there is -- and Steve's
14 point is just a fantastic point and I don't
15 know why I have focused on it with regard to
16 the effectiveness of mass comments. The thing
17 you're trying to figure out. One of the things
18 I always say is, Well, I don't know that they
19 make much difference and Stu Schulman did a
20 study where they say they don't make a
21 difference. But all these sophisticated
22 interest groups seem to think it matters, so
23 that makes me think they do make a difference
24 because they are inside players and they know
25 what they're doing. And now you have given an

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 alternate explanation, and maybe they just
3 really don't matter. This is really an
4 important issue to find out.

5 (Laughter.)

6 This question of is pulling the name
7 off sufficient and turning a pseudonymous
8 comment into an anonymous comment, A, I think
9 it is. What it does mean is an anonymous
10 comment is going to carry less weight than a
11 signed comment for this issue. And to the
12 extent the agency is going to do the work
13 Cynthia just said they're going to have to do,
14 to the extent they are not verifiable, I am not
15 convinced. I don't know who put this in.
16 There is no reason to believe it. If it is
17 verifiable, it's verifiable and so on.

18 But there are no getting around the
19 fact that a name will often, not always, but
20 often lend weight to a comment. That's where
21 that started.

22 The final point there is we keep
23 talking about false names, but really we should
24 think in terms of identifying information.
25 There are 325 million people in the country and

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 if someone says I'm John Smith, not every John
3 Smith is going to stand up and say, "Oh, my
4 God, you stole my identity. I don't believe
5 that." There are not that many Cary
6 Coglianeses, but most people have a name that a
7 bunch of other people have.

8 It can't just be the name. Even if
9 it is phony, you haven't hurt other people with
10 that name unless there is more identifying
11 information. That goes to the incentive to the
12 agency of how much information you going to
13 have. Once you get a street address or maybe
14 even e-mail address, that is something
15 different. Or a claimed job position, that is
16 something different. If someone says Barack
17 Obama, that is very specific. We all know who
18 they are talking about.

19 MR. COGLIANESE: I was just going to
20 offer maybe a rosy comment here at the end and
21 challenge Steve a little bit as to whether the
22 problem that he identified is really, after
23 all, a problem.

24 Here we have such a robust
25 democratic culture in America that a part of

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 the governmental process that legally and
3 operationally is not a plebiscite, everybody
4 nevertheless still thinks of it that way
5 because of the strength of our democratic
6 culture. It is so strong even that people want
7 to fake comment to try to win an imaginary
8 majority competition that doesn't exist, but
9 nevertheless is so deeply rooted in our
10 culture.

11 MR. HERZ: You could say the same
12 thing about Russia.

13 MR. MINER: A lot of these questions
14 and examples go to issues of intent and
15 materiality, which as you sort of walk through
16 what is the intent of the process. If the
17 intent is one that has no criminal illegality
18 attached to it, then that is not anything we
19 are going to be interested in. But as to
20 materiality, some of the points, an easy
21 walkthrough: How it will influence the process
22 and is it designed to do so? Obviously, those
23 are factors that go into those sort of fraud
24 determinations. But it is not that easy to
25 always establish that.

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 MR. VARONA: Now you see why this is
3 a dream panel to moderate and work with. So
4 please join me in thanking them.

5 (Applause.)

6 MR. VARONA: Now we will hear from
7 Professor Popper.

8 CLOSING REMARKS

9 MR. POPPER: Lunch is out in the
10 lobby. There is an evaluation form. It is
11 critically important that you fill it out. We
12 ask that you do.

13 I was asked to make closing remarks
14 on a program I did not see.

15 (Laughter.)

16 Consider the possibilities. I can
17 pretend I know what was said. I was teaching
18 Torts and dealing with attorney malpractice
19 this morning. Consider the possibilities
20 there, as well.

21 But what I did see both before I
22 left this morning, the first half-hour and the
23 last half-hour while I was here, was inspiring
24 beyond measure. I think on behalf of the Dean
25 and the faculty and the professional staff and

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 students of the Law School we are honored by
3 the program that you have put together.

4 As Cary said, we have identity
5 issues. There is only one of this -- and you
6 could have any number -- but there is only one
7 Administrative Law Review and it is here at
8 American University. And I hope that you
9 understand that between that Law Review and
10 ACUS, something very special has happened this
11 morning.

12 And I certainly understand that and
13 I am going to be asking a lot of my students to
14 help me get a handle on what has been said,
15 because I do look at rulemaking a little bit
16 different. No, it isn't a plebiscite, but it
17 is a direct system of participation and
18 engagement. It is part of our democratic
19 order. It is unlike anything else anywhere.

20 And the fact that the volume has
21 increased, the pace, the range, the number,
22 because of technology makes that challenge of
23 democracy only greater. I love that.

24 Yeah, fake reports, fake comments,
25 fake news, fake identity, anonymous or not

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"
2 anonymous, my response to that is not "so
3 what," my response is more "of course." Of
4 course.

5 We live in a moment where a couple
6 of days ago we had indictments against seven
7 people from Russia who were trying to invade
8 our system one way or another across the
9 planet. We are open, however. We are open for
10 business in terms of information. We are open
11 for business in terms of regulation. We have
12 stayed open for business. And this set of
13 problems is an attempt to make more powerful,
14 more accurate a process that is the envy, I
15 think, of the regulatory universe.

16 I don't have such a dim view of it.
17 I have a high view of where we stand as a legal
18 order. I think this program is really a
19 testament to that.

20 You, both the speakers and the
21 audience, you're the keepers of our legal
22 heritage. You're it. I've got news for you,
23 it's not Congress. Congress is on life support
24 at the moment. And it may well not be the
25 Courts or the White House. It's you as

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2 lawyers. It is the dignity with which we
3 proceed.

4 And I say this to my students and my
5 colleagues who are lawyers as well: It's the
6 importance we give to a program like this to
7 the ideas that are set forward. We are the
8 stewards. We are the guardians. We are the
9 ones who are responsible as shepherd for the
10 legal system, for our Constitution, and our
11 laws, and the quality of what goes into the
12 rulemaking process.

13 And I would take pride -- if I can
14 leave you with one thing, I would take pride in
15 what you do. Pride that you care enough to be
16 out here on a Friday morning to worry about
17 fake news and fake comments in rulemakings that
18 are not plebiscites where the comments maybe
19 can be ignored, but we worry a lot about the
20 legitimacy of those comments.

21 And so with that, and again on
22 behalf of the entire institution, the Law
23 School, and ACUS, and especially on behalf of
24 the Administrative Law Review, I want to thank
25 you for coming and ask you please in some form

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2 of orderly way to go out in the hall, get some
3 food, and come back in here. This room is full
4 of the people that you as lawyers want to hire.

5 (Laughter.)

6 MR. POPPER: And they're here with
7 their business cards and resumes and they're
8 ready to go. And if we can continue this
9 tradition of our law school linking this
10 profession and linking in this city, then this
11 entire event has been worth every moment and
12 every cent.

13 I wish you well. Have a good lunch
14 and I will see you all back in here in a few
15 minutes. Thank you.

16 (Applause.)

17 (The Symposium was adjourned at
18 12:43 p.m.)

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2 CERTIFICATE OF NOTARY PUBLIC

3 I, JOE W. STRICKLAND, RPR, CRR, CRC, the
4 officer before whom the foregoing symposium was
5 taken, do hereby certify that the testimony
6 appearing in the foregoing transcript was taken
7 by me in stenotypy and thereafter reduced to
8 print under my direction; that said transcript
9 is a true record of the testimony given by said
10 participants; that I am neither counsel for,
11 related to, nor employed by any of the
12 participants or organization involved in the
13 symposium; and, furthermore, that I am not a
14 relative nor employee of any attorney or
15 counsel employed by the parties hereto, nor
16 financially or otherwise interested in the
17 subject of the symposium.

18 Dated: October 17, 2018

19
20 _____
21 JOE W. STRICKLAND, RPR, CRR, CRC
22 Notary Public, in and for
23 The District of Columbia

24 My Commission Expires: November 30, 2021
25

1 "MASS AND FAKE COMMENTS IN AGENCY RULEMAKING"

2 -----I N D E X-----

3
4 INTRODUCTORY REMARKS: Matthew L. Wiener 6

5 KEYNOTE ADDRESS: Dominic J. Mancini 10

6 PANEL 1: 44

7 "Mass Comments in Rulemaking

8 PANEL 2: 97

9 "The Rise of Fake Comments in Rulemaking"

10 CLOSING REMARKS: Andrew F. Popper 154

11

12

13

14

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