

August 14, 2025

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

Re: GN Docket No. 25-133 – Adverse Comment

Dear Ms. Dortch:

We, the undersigned public interest, civil rights, and community-based organizations, write to oppose the adoption of a new procedure for Direct Final Rules¹ because it will not grant members of the public sufficient time to comment on proposed changes and because it grants more authority than appropriate to Bureaus and Offices.

The Direct Final Rule voted in the July meeting will do two things, if the Commission does not withdraw it: 1) eliminate a series of rules the Commission states are outdated² and 2) adopt a process to eliminate rules using the Direct Final Rules process in the future.³ We write to oppose the Direct Final Rule process proposed in this DFR.

The Commission has adopted both explicitly, and via the model of the DFR adopted in July, a process that does not give the public sufficient time or information to comment and that moves important decision-making to Bureaus and Offices.

The time and information given to the public is not sufficient. The Commission adopted a 10-day comment window starting with publication in the Federal Register—and prohibited any comment after 10 days. After the 10 days are over, if the Commission does not withdraw the DFR, the changes announced will take effect 50 days later. We appreciate that the Commission offered 20 days for comment in the newest DFR issued on August 8,⁴ but 20 days is still insufficient. Instead, we suggest the Commission adopt a 30-day time period for comment, as recommended by the Administrative Conference of the United States in its guidance for how agencies should use a DFR process.⁵ The

¹ *Direct Final Rule*, GN Docket 25-133, FCC 25-40, 90 Fed. Reg. 36383 (August 4, 2025) (*July Open Meeting DFR*).

² *July Open Meeting DFR* at ¶ 4.

³ *Id.* at ¶¶ 5-11.

⁴ *Direct Final Rule*, GN Docket 25-133, FCC 25-51 (rel. August 8, 2025) (*August Open Meeting DFR*), <https://docs.fcc.gov/public/attachments/FCC-25-51A1.pdf>.

⁵ Administrative Conference of the United States, Recommendation 2024–6, *Public Engagement in Agency Rulemaking Under the Good Cause Exemption*, 89 Fed. Reg. 106406, 106409 para. 2(d) (Dec. 30, 2024).

Commission should require a minimum of 30 days, not 10 or 20 days, for comment and longer if more rules or more complex rules are being eliminated.

Further, the two DFRs the public has seen so far—this one voted at the July open meeting and the one voted on the August 7 meeting agenda⁶—offer minimal explanation for why the rules are being removed. There is only one sentence describing elimination of many rules and each rule removal is described in a footnote with a parenthetical about the change.⁷ It is not enough. The Commission should require that DFRs include more complete descriptions of the rules being removed, why they were originally adopted and why they are being eliminated. This will reduce the burden on the public reviewing DFRs.

Many organizations, including the undersigned signatories, would struggle to participate under the new DFR procedure. The challenges are summarized below, and a full list is provided in the appendix:

- Many organizations are small, volunteer-led, or have limited staff without dedicated legal or policy expertise. This makes it hard to monitor FCC proceedings and meet short comment deadlines.
- Organizations often develop comments in collaboration with members, partners, and coalitions. It can take a substantial amount of time to gather input, draft comments, and receive approval. Some organizations require further approval from executives and boards of directors.
- Shortened timelines prevent adequate consultation with marginalized or underrepresented communities whose perspectives are often missing from proceedings.

In addition, while the DFR process is intended for simple, non-controversial procedures, this DFR is adopting a process that will have significant impact on the public by creating a new process, outside of the Commission's rules, to rapidly and with little notice change regulations. Currently the FCC has no codified rules describing this process. Such change should be adopted via a notice and comment rulemaking.⁸

Further, no matter how the Commission adopts the new DFR process, the Commission is granting extensive latitude to Bureaus and Offices. Specifically, it is up to the Bureaus and Offices to determine whether adverse comments are sufficient to warrant

⁶ *August Open Meeting DFR*.

⁷ This DFR stated it was removing rules “they govern obsolete technology, outdated marketplace conditions, expired deadlines, or repealed legal obligations.” *July Open Meeting DFR* at ¶ 4.

⁸ Comments of TechFreedom, GN Docket 25-133 at 4-6 (filed July 16, 2025), <https://www.fcc.gov/ecfs/document/10716137789615/1>.

withdrawal of the DFR.⁹ The Commission has offered little guidance except for the general idea that any change adopted by a DFR should fall within the “good cause” exception to the Administrative Procedure Act which normally requires notice and an opportunity for comment before any change is adopted. There are many reasons why a proposed change might fall under the good cause exception¹⁰ and more clarity is needed. We are supportive of the Commission’s announcement that it will proceed with future DFRs at the Commission level,¹¹ but it should not make such a broad and vague delegation to the Bureaus and Offices.¹²

In sum, the undersigned organizations oppose the proposed procedures for Direct Final Rules because: 1) they do not provide sufficient information and notice for public participation; 2) the newly-announced DFR process is too important to be adopted using the shortened mechanism of a DFR; and 3) because the Commission is granting too much and vague authority to Bureaus and Offices to determine whether a DFR should be withdrawn. We urge the Commission to establish a DFR process via notice and comment rulemaking and seek comment on an appropriate process for DFRs building on the suggestions above.

Sincerely,

-American Library Association

-Asian Americans Advancing Justice - AAJC

-Benton Institute for Broadband & Society

-Center for Rural Strategies

-Common Sense Media

-Communications Workers of America, AFL-CIO

-Empath, Inc.

⁹ *July Open Meeting DFR* at ¶¶ 7-8.

¹⁰ For example, the Congressional Research Service has a 20-page report considering the various determinations and judicial opinions on the good cause standard. Jared P. Cole, Congressional Research Service, *The Good Cause Exception to Notice and Comment Rulemaking: Judicial Review of Agency Action* (2016), https://www.congress.gov/crs_external_products/R/PDF/R44356/R44356.3.pdf.

¹¹ *July Open Meeting DFR* at ¶ 10.

¹² Letter from Public Knowledge *et al.* to Hon. Brendan Carr, Chairman, FCC, GN Docket No. 25-133, at 2-3 (filed July 17, 2025) (describing procedural requirements and challenges for judicial review of decisions made on delegated authority).

- Japanese American Citizens League*
- Massachusetts Law Reform Institute*
- MediaJustice*
- National Digital Inclusion Alliance*
- National Hispanic Media Coalition*
- New America's Open Technology Institute*
- NTEN*
- Public Knowledge*
- Schools, Health & Libraries Broadband Coalition*
- The STEM Alliance*
- United Church of Christ Media Justice Ministry*

APPENDIX

“The American Library Association represents nearly 50,000 members across the United States. We engage stakeholders in the nation’s 123,000 libraries with federal policy and FCC priorities. Our stakeholder engagement process requires up to 30 days’ time in order to be most effective, responsive, and representative.”

-American Library Association

“We don’t have dedicated staff to monitor FCC proceedings so are unlikely to be able to respond quickly with perspectives on how rules might uniquely impact rural communities.”

-Center for Rural Strategies

“Like many organizations, we have limited staff and shortening timelines unduly burdens our members’ ability to be heard in these proceedings.”

-Communications Workers of America, AFL-CIO

“Lead a coalition of over 200 organizations and individual members. We meet only once a month and need more time to present the issue, for discussion and getting draft comments approved.”

-Massachusetts Law Reform Institute

“We’re a small organization without lawyers or internal legal support. We often need to collaborate with ally organizations who do have legal and policy staff in order to file timely and impactful comments. Collaboration requires time and communication, sometimes negotiation. We also represent marginalized communities who often aren’t represented in comments and the lack of meaningful time means we won’t be able to connect and consult with our community members to inform our contributions to individual and collective comments.”

-MediaJustice

“NDIA was established ten years ago to support digital inclusion practitioners by representing their needs to policymakers, including the Commission. Since then, NDIA's work has expanded, but our initial purpose and methods remain the same. Each time we file comments with the FCC (or any other agency), we consult with our affiliates to ensure we always accurately represent their interests. This time-intensive, yet essential, process cannot be completed within 10 or 20 days.”

-National Digital Inclusion Alliance

“The National Hispanic Media Coalition has a small but mighty team. As one of the only Latino Civil Rights organizations in the telecommunications and technology policy space, our team cannot effectively digest a draft order, consult internal and external experts, conduct research, draft comments, have our President & CEO review, edit, and approve, and file comments within twenty days. It would require nearly all of our team's capacity to focus on one issue area and item, which we simply cannot afford to do under the current political circumstances.”

-National Hispanic Media Coalition

“NTEN is a small organization with a very large community of members and program participants. Shortening the time available to us to educate our community and gather priorities for a response to FCC proceedings would dramatically diminish our ability to participate in this important component of the FCC's process.”

-NTEN

“We are a 20-person tech policy coalition that frequently collaborates with partners, such as Tribal entities or membership-based organizations, whose coordination needs require more than a 10-day timeframe.”

-Public Knowledge

“Public input is a vital aspect of our efforts to engage all people in our digitally driven world. With a staff of 21 and an annual impact on over 1,500 clients, our staff and leadership would no longer be able to bring the experiences of those we serve to the policies that are being considered at the federal level. As these policies directly impact our local residents, our coordinated efforts have a direct ability to bring the voices of Americans to the FCC for consideration. Additionally, The STEM Alliance is a member

in multiple other regional coalitions, networks and organizations whose membership provide coordinated data gathering that would be informative to all FCC proceedings. These groups include but are not limited to the New York State Digital Equity Network, National Digital Inclusion Alliance, the Afterschool Network, New York State Network for Youth Success, the National Summer Learning Association and Nonprofit Westchester.”

-The STEM Alliance

“We are a single-staffer organization with a volunteer board that meets monthly that often works in coalition with other civil rights organizations which, in turn, have members and affiliates and other staff who must sign off on regulatory filings.”

-United Church of Christ Media Justice Ministry