AFL-CIO * AFSCME * American Association of University Women (AAUW) * Americans for Financial Reform * Clean Water Action * Consumer Action * Consumer Federation of America * Consumers for Auto Reliability and Safety * Demand Progress * Earthjustice * Economic Policy Institute * Environment America * Greenpeace * Homeowners Against Deficient Dwellings * International Union, United Automobile, Aerospace, & Agricultural Implement Workers of America (UAW) * League of Conservation Voters * National Association of Consumer Advocates * National Center for Transgender Equality * National Fair Housing Alliance * Natural Resources Defense Council * NETWORK Lobby for Catholic Social Justice * Physicians for Social Responsibility * Prairie Rivers Network * Project On Government Oversight * Public Citizen * SafeWork Washington * U.S. PIRG * Union of Concerned Scientists * United Steelworkers * United Support and Memorial for Workplace Fatalities (USMWF) * Voices for Progress * WE ACT for Environmental Justice * Woodstock Institute

February 28, 2017

RE: House floor vote of H.R. 1004, the Regulatory Integrity Act

Dear Representative:

We, the undersigned consumer, small business, labor, good government, financial protection, community, health, environmental, civil rights and public interest groups **strongly oppose H.R. 1004, the Regulatory Integrity Act.**

H.R. 1004 will significantly undermine federal agencies' ability to engage and inform the public in a meaningful and transparent way regarding its work on important science-based rulemakings that will greatly benefit the public. As a result, the bill will lead to decreased public awareness and participation in the rulemaking process in direct contradiction of the Administrative Procedure Act and agencies' authorizing statutes, which specifically provide for broad stakeholder engagement.

Substantial ambiguities in the bill threaten to create uncertainty and confusion among agencies about what public communications are permissible, and thus risks discouraging them from keeping the public apprised of the important work that they do on its behalf. In an era when agencies should be increasingly embracing innovative 21st century communications technologies needed to reach the public, including social media, H.R. 1004 sends exactly the wrong message.

The legislation strictly prohibits agencies from issuing "public communications" that "emphasize the importance" of a particular agency action unless the communication has the "clear purpose of informing the public of the substance or status" of the particular action. The legislation applies to a wide swath of regulatory actions including rulemakings, guidance, policy statements, directives and adjudications.

While H.R. 1004 assumes that the distinction between informing the public of an agency action and emphasizing the importance of that action is self-evident, in practice the distinction is anything but clear. As a result, agencies are likely to avoid any public communications that risk

running afoul of this ambiguous prohibition, no matter how informative the communication might be for the public.

For example, various executive orders and statutes compel agencies to conduct cost-benefit analysis on their pending rulemakings, and thus to determine whether the rule's benefits outweigh its costs. As currently written, the Regulatory Integrity Act could potentially prohibit an agency from communicating the results of such an analysis when it concludes that a particular rule generates net benefits. After all, that conclusion is tantamount to declaring that the rule makes society better off on balance. Instead, the agency would likely be forced to simply share the basic information that they had conducted a cost-benefit analysis of the regulation without being able to share the further crucial information that the regulation's benefits exceeded the costs. Given that many of the bill's sponsors enthusiastically endorse the expanded use of cost-benefit analysis in the rulemaking process, these kinds of arbitrary prohibitions on communications concerning cost-benefit analysis seem especially peculiar.

Agencies would encounter this problematic scenario when deciding to share vital information, such as:

- How many lives would be saved by a regulation;
- How much property damage would be averted;
- How much money consumers would save; and
- Any of the other myriad public benefits that regulations are designed to provide.

The stark absence of any clear bright-lines in the legislation delineating what is and what is not prohibited public communications is sure to have a chilling effect on agencies, with the predictable result that agencies will be less willing to share crucial information with the public and that the public will be less informed about government activities.

H.R. 1004 also will severely impede, rather than enable, agency use of new communication technologies, most notably social media platforms, to reach the public. Regulatory experts and scholars agree that agencies should be using social media forums and platforms.

Agencies will find it difficult, if not impossible, to communicate with the public through social media under H.R. 1004 since the bill prevents any usage of social media that both conveys information about a regulatory action but also promotes the importance of that action.

For example, the U.S. Department of Interior operates a Twitter and Instagram account[1] that is very popular with the public because it regularly features photos of beautiful landscapes and wildlife from national parks across the United States. Under the Regulatory Integrity Act, the Department might be prohibited from posting such photos on Twitter and Instagram because they are not solely informational in nature and could be interpreted as promoting the importance of the department's work in environmental and wildlife preservation.

Enactment of H.R. 1004 will lead to less transparency in the government, make it more difficult for agencies to use new communication technologies popular with the public, and generally chill

[1] https://twitter.com/Interior, https://www.instagram.com/usinterior

agency communications with the public on important matters due to the lack of any bright-line standards for agencies to follow.

We strongly urge you to oppose H.R. 1004, the Regulatory Integrity Act.

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Environment America
Greenpeace
Homeowners Against Deficient Dwellings
International Union, United Automobile, Aerospace, & Agricultural Implement Workers of America (UAW)
League of Conservation Voters
National Association of Consumer Advocates
National Center for Transgender Equality
National Fair Housing Alliance
Natural Resources Defense Council
NETWORK Lobby for Catholic Social Justice
Physicians for Social Responsibility
Prairie Rivers Network
Project On Government Oversight
Public Citizen
SafeWork Washington
U.S. PIRG
Union of Concerned Scientists
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