



The Committee on Energy and Commerce

Memorandum

July 18, 2012

To: Members of the Subcommittee on Commerce, Manufacturing, and Trade

From: Majority Committee Staff

Re: H.R. 6131, a bill to renew the Federal Trade Commission's authority to combat cross-border spam, spyware and fraud through reauthorization of the U.S. SAFE WEB Act of 2006

On Friday, July 20, 2012, the Subcommittee on Commerce, Manufacturing, and Trade will hold a subcommittee markup of H.R.6131, a bill to renew the Federal Trade Commission's authority to combat cross-border spam, spyware and fraud through reauthorization of the U.S. SAFE WEB Act of 2006 for an additional seven years. The markup will be held in 2322 Rayburn and will begin immediately following the conclusion of the Subcommittee's scheduled hearing.

I. BACKGROUND

In the early 2000s, the Federal Trade Commission (FTC) began to highlight the growing problems the agency encountered in effectively combatting Internet scams and fraud being perpetrated against U.S. citizens by foreign operators. In 2005, an estimated 20 percent of consumer complaints the FTC received involved fraud originating outside the United States. Additionally, according to the FTC's analysis of consumer complaints from the Consumer Sentinel Network, consumers suffered losses to foreign companies of almost \$219 million in 2006.

The FTC identified limitations in its authority relative to that of other U.S. regulators. Of greatest importance was the Commission's lack of authority to share information with foreign law enforcers. In order to expand its kit of administrative tools, the FTC sent Congress legislative recommendations in 2005 seeking additional authorities. Congress passed the U.S. SAFE WEB Act on December 6, 2006, and it was signed into law on December 22, 2006 (P.L. 109-455).

Pursuant to the Act, the FTC issued a report, "*The U.S. SAFE WEB Act: The First Three Years*", in December 2009 detailing its use of and experience with the authority granted by the Act. The FTC reported that, over the three year period of 2006-2008, it received 97,287, 86,564, and 76,835 cross-border complaints, respectively.¹ The FTC also reported it shared compelled or

¹ Federal Trade Commission, *The U.S. SAFE WEB Act: The First Three Years, A Report to Congress*, (Washington, DC, December, 2009) p. ii, (available at <http://www.ftc.gov/os/2009/12/P035303safewebact2009.pdf>), accessed July 5, 2012.

confidential information in response to 38 requests from 14 foreign agencies in six countries resulting in several enforcement proceedings.²

U.S. SAFE WEB Summary

U.S. SAFE WEB amends the FTC Act to authorize the Commission to:

1. share information involving cross border fraud with foreign consumer protection agencies;
2. secure confidential information from those foreign consumer protection agencies by protecting confidential information from public disclosure (that otherwise would not be shared by many foreign law enforcers);
3. take fraud-based legal action by amending the “unfair or deceptive acts or practices” to include acts involving foreign commerce or material misconduct within the U.S.;
4. seek redress on behalf of foreign consumers victimized by U.S.-based wrong-doers; and
5. make criminal referrals for cross-border criminal activity when violations of FTC law also violate U.S. criminal law (some foreign agencies address consumer fraud as a criminal, rather than civil, law enforcement issue).

H.R. 6131 Summary

The Act and its grant of authorities to the FTC will expire on December 22, 2013, without reauthorization. H.R. 6131 reauthorizes U.S. SAFE WEB beyond 2013 by amending Section 13’s sunset date. The amended Section 13 reauthorizes U.S. SAFE WEB for an additional seven years (the initial authorization period) by changing the existing expiration date of December 22, 2013, to the end of Fiscal Year 2020 (September 30, 2020). Additionally, it specifies that the provisions of the Act will cease to be effective after the date of expiration absent further reauthorization.

The Subcommittee held a hearing on July 12, 2012 on draft legislation to reauthorize the U.S. SAFE WEB Act of 2006. The Subcommittee received testimony from the Federal Trade Commission. On July 17, 2012, Chairman Bono Mack and Ranking Member Butterfield introduced H.R. 6131 to reauthorize the U.S. SAFE Web Act of 2006. The text of H.R. 6131 is the same as the text of the draft legislation for which the Subcommittee held a hearing on July 12, 2012.

Please contact Brian McCullough, Gib Mullan, or Shannon (Weinberg) Taylor of the Committee staff at (202) 225-2927 with questions.

² Ibid.