

113TH CONGRESS  
1ST SESSION

# H. R. 2356

To provide for notification to consumers before a video service collects visual or auditory information from the viewing area and to provide consumers with choices that do not involve the collection of such information, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2013

Mr. CAPUANO (for himself and Mr. JONES) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

---

## A BILL

To provide for notification to consumers before a video service collects visual or auditory information from the viewing area and to provide consumers with choices that do not involve the collection of such information, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “We Are Watching You  
5 Act of 2013”.

6       **SEC. 2. NOTIFICATION AND CONSUMER CHOICE.**

7       (a) NOTIFICATION.—

1           (1) IN GENERAL.—An operator of a video serv-  
2           ice may not collect visual or auditory information  
3           from the vicinity of the device used to display the  
4           video programming stream to the consumer unless  
5           the operator—

6                   (A) displays, as part of the video program-  
7                   ming stream, a message that reads, “We are  
8                   watching you.”; and

9                   (B) provides to the consumer a description  
10                  of the types of information that will be collected  
11                  and how such information will be used.

12           (2) ON-SCREEN MESSAGE.—The message re-  
13           quired by paragraph (1)(A) shall be displayed—

14                   (A) continuously during the time informa-  
15                   tion is being collected; and

16                   (B) in a color, font, and size that are eas-  
17                   ily readable at a normal viewing distance.

18           (3) DESCRIPTION OF INFORMATION COL-  
19           LECTED.—

20                   (A) IN GENERAL.—The description re-  
21                   quired by paragraph (1)(B) shall be provided as  
22                   part of the terms and conditions to which the  
23                   consumer must agree before using the video  
24                   service.

1           (B) DEVICE PROVIDED BY OPERATOR.—In  
2           the case of a video service that is accessed  
3           through a device sold or provided to the con-  
4           sumer by the operator of the video service, the  
5           description required by paragraph (1)(B) shall  
6           be provided as part of the written instructions  
7           and other materials accompanying the device, in  
8           addition to being provided as required by sub-  
9           paragraph (A).

10       (b) CONSUMER CHOICE OF ALTERNATIVE SERV-  
11 ICE.—

12           (1) IN GENERAL.—If an operator offers a video  
13           service involving the collection of visual or auditory  
14           information from the vicinity of the device used to  
15           display the video programming stream to the con-  
16           sumer, such operator shall offer a video service that  
17           does not involve the collection of such information  
18           but is otherwise identical in all respects.

19           (2) DEVICE PROVIDED BY OPERATOR.—In the  
20           case of a video service that is accessed through a de-  
21           vice sold or provided to the consumer by the oper-  
22           ator of the video service, the operator shall sell or  
23           provide in connection with the alternative service re-  
24           quired by paragraph (1) a device that is not capable  
25           of collecting such information.

1 (c) REQUIREMENTS FOR INFORMATION DISCLO-  
2 SURE.—An operator of a video service that collects visual  
3 or auditory information from the vicinity of the device  
4 used to display the video programming stream to the con-  
5 sumer may only disclose such information—

6 (1) with the express consent of the consumer;

7 or

8 (2) as required by a court order issued in con-  
9 nection with a law enforcement investigation.

10 (d) REGULATIONS.—The Commission may promul-  
11 gate regulations in accordance with section 553 of title  
12 5, United States Code, to implement and enforce this sec-  
13 tion.

14 **SEC. 3. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

15 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

16 A violation of section 2 or a regulation promulgated under  
17 such section shall be treated as a violation of a regulation  
18 under section 18(a)(1)(B) of the Federal Trade Commis-  
19 sion Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or de-  
20 ceptive acts or practices.

21 (b) POWERS OF COMMISSION.—The Commission  
22 shall enforce section 2 and the regulations promulgated  
23 under such section in the same manner, by the same  
24 means, and with the same jurisdiction, powers, and duties  
25 as though all applicable terms and provisions of the Fed-

1 eral Trade Commission Act (15 U.S.C. 41 et seq.) were  
2 incorporated into and made a part of this Act. Any person  
3 who violates such section or a regulation promulgated  
4 under such section shall be subject to the penalties and  
5 entitled to the privileges and immunities provided in the  
6 Federal Trade Commission Act.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

9 (1) COMMISSION.—The term “Commission”  
10 means the Federal Trade Commission.

11 (2) OPERATOR.—The term “operator” means,  
12 with respect to a video service, the person with  
13 whom the consumer directly interacts to select and  
14 initiate the transmission of the video programming  
15 stream.

16 (3) VIDEO SERVICE.—The term “video service”  
17 means the transmission of a video programming  
18 stream to consumers by means of the facilities of the  
19 operator of the service, the facilities of another per-  
20 son, or any combination thereof.

○