

TO EXTEND THE UNDERTAKING SPAM, SPYWARE, AND  
FRAUD ENFORCEMENT WITH ENFORCERS BEYOND  
BORDERS ACT OF 2006, AND FOR OTHER PURPOSES

DECEMBER 16, 2019.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce,  
submitted the following

R E P O R T

[To accompany H.R. 4779]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4779) to extend the Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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I. PURPOSE AND SUMMARY

H.R. 4779, a bill to extend the Undertaking Spam, Spyware, and Fraud Enforcement With Enforcers beyond Borders Act of 2006

(U.S. SAFE WEB Act), was introduced on October 22, 2019, by Reps. McMorris Rodgers (R-WA), Kelly (D-IL), and Bucshon (R-IN). H.R. 4779 would reauthorize the U.S. SAFE WEB Act through fiscal year 2027. It would also require the Federal Trade Commission (FTC or Commission) to issue a report to Congress describing the Commission's use of and experience with the authority granted by the U.S. SAFE WEB Act.

## II. BACKGROUND AND NEED FOR LEGISLATION

Enacted into law on December 22, 2006, the U.S. SAFE WEB Act amended the Federal Trade Commission Act (FTC Act) to improve the FTC's ability to combat unfair or deceptive acts or practices that are international in scope.<sup>1</sup> Specifically, U.S. SAFE WEB Act: (1) affirms the FTC's cross-border enforcement authority;<sup>2</sup> (2) authorizes collaboration with foreign law enforcement in the form of investigative assistance<sup>3</sup> and information sharing,<sup>4</sup> provided certain statutory factors are met; (3) bolsters the FTC's ability to receive information from foreign counterparts by allowing confidential treatment of information received;<sup>5</sup> and (4) promotes relationship building through staff exchanges with foreign counterparts.<sup>6</sup>

Since the law's enactment, the FTC has relied on the provisions in U.S. SAFE WEB Act to respond to 156 information-sharing requests from 38 enforcement agencies in 15 foreign countries.<sup>7</sup> The FTC has also used the U.S. SAFE WEB Act to issue more than 135 civil investigative demands in 63 investigations on behalf of 16 foreign agencies from eight countries.<sup>8</sup>

According to the FTC's Consumer Sentinel complaint database, there were more than 255,000 complaints from U.S. consumers against foreign businesses between January 1, 2015, and October 16, 2019.<sup>9</sup> The total dollar loss from these complaints reportedly exceeds \$410 million.<sup>10</sup>

U.S. SAFE WEB Act was reauthorized in December 2012 for an additional seven years and is scheduled to expire on September 30, 2020.<sup>11</sup>

H.R. 4779 would ensure that the FTC continues to have the cross-border enforcement authority and international cooperation tools it needs to protect American consumers from unfair or deceptive acts or practices that originate abroad. This program provides a sound foundation for related issues of protecting and preserving cross-border data flows that are essential for Privacy Shield and other such agreements. Such legislation helps promote our leader-

<sup>1</sup>Pub. L. No. 109-455.

<sup>2</sup>*Id.* at § 3.

<sup>3</sup>*Id.* at § 4.

<sup>4</sup>*Id.* at § 6.

<sup>5</sup>*Id.*

<sup>6</sup>*Id.* at § 9.

<sup>7</sup>Letter from Joseph J. Simons, Chairman, Federal Trade Commission; Noah Joshua Phillips, Commissioner, Federal Trade Commission; Rohit Chopra, Commissioner, Federal Trade Commission; Rebecca Kelly Slaughter, Commissioner, Federal Trade Commission; and Christine S. Wilson, Commissioner, Federal Trade Commission, to Rep. Jan Schakowsky, Chairwoman, Subcommittee on Consumer Protection and Commerce, House Committee on Energy and Commerce and Rep. Cathy McMorris Rodgers, Ranking Member, Subcommittee on Consumer Protection and Commerce, House Committee on Energy and Commerce (Oct. 25, 2019).

<sup>8</sup>*Id.*

<sup>9</sup>*Id.*

<sup>10</sup>*Id.*

<sup>11</sup>*Id.*

ship on artificial intelligence, autonomous vehicles, quantum computing, and other emerging technologies.

### III. COMMITTEE HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearings were used to develop or consider H.R. 4779:

The Subcommittee on Consumer Protection and Commerce held a legislative hearing on October 24, 2019, on H.R. 4779, a bill to extend the Undertaking Spam, Spyware, and Fraud Enforcement With Enforcers beyond Borders Act of 2006, and one other bill. The hearing was entitled, “Reauthorizing Brand USA and the U.S. SAFE WEB Act.” The Subcommittee received testimony from the following witnesses:

- Christopher L. Thompson, President and CEO, Brand USA;
- Tori Barnes, Executive Vice President, U.S. Travel Association; and
- Aaron J. Burstein, Partner, Wilkinson Barker Knauer LLP.

### IV. COMMITTEE CONSIDERATION

H.R. 4779, a bill to extend the Undertaking Spam, Spyware, and Fraud Enforcement With Enforcers beyond Borders Act of 2006 was introduced on October 22, 2019, by Reps. McMorris Rodgers (R-WA), Kelly (D-IL), and Bucshon (R-IN), and referred to the Committee on Energy and Commerce. The bill was subsequently referred to the Subcommittee on Consumer Protection and Commerce on October 23, 2019. On November 14, 2019, the Subcommittee met in open markup session, pursuant to notice, to consider H.R. 4779. No amendments were offered during the Subcommittee’s consideration. Subsequently, the Subcommittee on Consumer Protection and Commerce agreed to a motion by Ms. Schakowsky, Chairwoman of the subcommittee, to favorably forward H.R. 4779 to the full Committee on Energy and Commerce, without amendment, by a voice vote.

On November 20, 2019, the full Committee met in open markup session, pursuant to notice, to consider H.R. 4779. No amendments were offered during the bill’s consideration. Subsequently, a motion by Mr. Pallone, Chairman of the committee, to order H.R. 4779 reported favorably to the House, without amendment, was agreed to by a voice vote, a quorum being present.

### V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were no record votes taken on H.R. 4779, including a Pallone motion on final passage, which was agreed to by a voice vote.

#### VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

#### VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

#### VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to extend the U.S. SAFE WEB Act of 2006.

#### X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 4779 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

#### XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4779 contains no earmarks, limited tax benefits, or limited tariff benefits.

#### XIII. ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

## XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Extension of the U.S. SAFE WEB Act of 2006*

This section amends the sunset on U.S. SAFE WEB Act from September 30, 2020, to September 30, 2027.

*Sec. 2. Report*

This section requires the FTC to issue a report not later than three years after the date of enactment on the Commission's use and experience with the authority granted by the U.S. SAFE WEB Act. It further specifies that the report shall include: (1) the number of cross-border complaints; (2) the foreign agencies with which the Commission has cooperated and the results of such cooperation; (3) Commission litigation brought in foreign courts; and (4) any recommendations for legislation that may advance the Commission in carrying out the U.S. SAFE WEB Act.

## XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**U.S. SAFE WEB ACT OF 2006**

\* \* \* \* \*

**SEC. 13. SUNSET.**

Effective [September 30, 2020] *September 30, 2027*, this Act, and the amendments made by this Act, are repealed, and any provision of law amended by this Act shall be amended to read as if this Act had not been enacted into law.

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