

112TH CONGRESS
2D SESSION

H. R. 6508

To direct the Federal Trade Commission to promulgate rules requiring an Internet merchant to disclose the use of a price-altering computer program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2012

Mrs. DAVIS of California (for herself, Ms. RICHARDSON, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To direct the Federal Trade Commission to promulgate rules requiring an Internet merchant to disclose the use of a price-altering computer program, 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 “Ensuring Shoppers
5 Transparency in Online Pricing Act of 2012” or the “E-
6 STOP Act”.

1 **SEC. 2. DISCLOSURE REQUIREMENT FOR INTERNET MER-**
2 **CHANTS.**

3 (a) RULEMAKING.—The Federal Trade Commission
4 shall, not later than 180 days after the date of enactment
5 of this Act, promulgate rules under section 553 of title
6 5, United States Code, requiring an Internet merchant to
7 disclose to each consumer, prior to the final purchase of
8 any good or service, the use of a price-altering computer
9 program.

10 (b) CONTENT.—The rules promulgated by the Com-
11 mission under subsection (a) shall—

12 (1) require, at a minimum, an Internet mer-
13 chant to clearly and prominently disclose the use of
14 a price-altering computer program to a consumer
15 prior to the final purchase of a good or service; and

16 (2) provide an Internet merchant procedures
17 for complying with the requirement under paragraph
18 (1).

19 (c) EXCEPTIONS.—The Commission shall provide for
20 specific exceptions to the rules promulgated under sub-
21 section (a) when a consumer should reasonably expect the
22 price to be altered based on the personal information of
23 such consumer, including but not limited to for the cal-
24 culation of a shipping charge and for a financial service
25 for which personal information is customarily used to for-
26 mulate a price.

1 (d) INTERNET MERCHANTS SUBJECT TO DISCLO-
2 SURE REQUIREMENT.—The rules promulgated under sub-
3 section (a) shall only apply to an Internet merchant that
4 has a total annual gross revenue of more than \$1,000,000,
5 and such amount shall be indexed for inflation every 5
6 years by the Commission to reflect the change in the Con-
7 sumer Price Index for All Urban Consumers published by
8 the Bureau of Labor Statistics of the Department of
9 Labor.

10 (e) ENFORCEMENT.—A violation of a rule promul-
11 gated under subsection (a) shall be treated as a violation
12 of a rule defining an unfair or deceptive act or practice
13 prescribed under section 18(a)(1)(B) of the Federal Trade
14 Commission Act (15 U.S.C. 57a(a)(1)(B)). The Commis-
15 sion shall enforce this Act in the same manner, by the
16 same means, and with the same jurisdiction, powers, and
17 duties, as though all applicable terms and provisions of
18 the Federal Trade Commission Act were incorporated into
19 and made a part of this Act.

20 (f) DEFINITIONS.—In this Act:

21 (1) INTERNET.—The term “Internet” has the
22 meaning given the term in section 1101 of the Inter-
23 net Tax Freedom Act (47 U.S.C. 151 note).

24 (2) INTERNET MERCHANT.—The term “Inter-
25 net merchant” means a person that sells or offers to

1 sell a good or service by way of an Internet trans-
2 action.

3 (3) INTERNET PROTOCOL ADDRESS.—The term
4 “Internet Protocol address” means the numerical
5 label assigned to a particular computer or other de-
6 vice that accesses the Internet.

7 (4) PRICE-ALTERING COMPUTER PROGRAM.—
8 The term “price-altering computer program” means
9 a computer program that—

10 (A) accesses a consumer’s personal infor-
11 mation, including but not limited to Internet
12 browsing history, device type and manufacturer,
13 operating system, and Internet Protocol ad-
14 dress; and

15 (B) uses the information accessed under
16 subparagraph (A) to alter the selling price of a
17 good or service sold by an Internet merchant.

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