

113TH CONGRESS
1ST SESSION

H. R. 2487

To direct the Federal Trade Commission to promulgate rules requiring an Internet merchant to disclose the use of personal information in establishing or changing a price, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2013

Mrs. DAVIS of California (for herself 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 personal information in establishing or changing a price, 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 Honest Online Pricing Act of 2013” or the “E-SHOP
6 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 personal information in
9 establishing or changing a price.

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 to a con-
14 sumer prior to the final purchase of a good or serv-
15 ice the use of personal information in establishing or
16 changing a price; and

17 (2) provide an Internet merchant procedures
18 for complying with the requirement under paragraph
19 (1).

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

1 for which personal information is customarily used to for-
2 mulate a price.

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

12 (e) ENFORCEMENT.—A violation of a rule promul-
13 gated under subsection (a) shall be treated as a violation
14 of a rule defining an unfair or deceptive act or practice
15 prescribed under section 18(a)(1)(B) of the Federal Trade
16 Commission Act (15 U.S.C. 57a(a)(1)(B)). The Commis-
17 sion shall enforce this Act in the same manner, by the
18 same means, and with the same jurisdiction, powers, and
19 duties, as though all applicable terms and provisions of
20 the Federal Trade Commission Act (15 U.S.C. 41 et seq.)
21 were incorporated into and made a part of this Act.

22 (f) SAVINGS PROVISION.—No provision of this Act
23 shall be construed as limiting or superseding any authority
24 of the Federal Trade Commission under the Federal
25 Trade Commission Act or any other law.

1 (g) DEFINITIONS.—In this Act:

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

5 (2) INTERNET MERCHANT.—The term “Inter-
6 net merchant” means a person that sells or offers to
7 sell a good or service by way of an Internet trans-
8 action.

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

13 (4) PERSONAL INFORMATION.—The term “per-
14 sonal information” includes an individual’s Internet
15 browsing history, device type and manufacturer, op-
16 erating system, and Internet Protocol address.

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