

had known in 2002 what he had since learned, he would have opposed the war in Iraq. A few weeks ago, he wrote that it is now time for the U.S. to get out and leave Iraq to the Iraqis. This is a man who has been described as the "godfather of conservatism."

On June 17, Mr. Buckley wrote that opposition to the war was mounting and summed up his feelings in this way: "A respect for the power of the United States is engendered by our success in engagements in which we take part. A point is reached when tenacity conveys not steadfastness of purpose, but misapplication of pride. It can't reasonably be disputed that if in the year ahead the situation in Iraq continues about as it has done in the past year, we will have suffered more than another 500 soldiers killed. Where there had been skepticism about our venture, there will be contempt."

We should heed these words of this very respected conservative leader. The American people do not want this war to continue for another 10 or 12 years, or even another 5 or 6 more years.

FIXING SOCIAL SECURITY IN A BIPARTISAN MANNER

(Mr. RYAN of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Wisconsin. Madam Speaker, I want to talk about the issue of Social Security. Social Security is an important issue that affects every one of us in this country, yet it has become a partisan issue. It should not have to be a partisan issue. We are hearing comments from the other side that basically say do nothing at all to fix and address Social Security.

What we are proposing today is to try to come up with a consensus plan to at the very least take the surplus Social Security taxes that we are paying and spending on other government programs and apply that surplus to help workers prepare for their Social Security retirement benefit.

At the very least, let us make sure that the surplus taxpayers are paying today and for the next 12 years is dedicated toward preserving their Social Security retirement benefit. That is what we are hoping to accomplish here by trying to have an olive branch of consensus and bipartisanship. That is what we hope to accomplish with this latest plan we have introduced.

But more importantly, Madam Speaker, every year we delay fixing Social Security is another year where we add another \$600 billion of debt to the Social Security problem. That is according to the trustees.

Congress needs to be serious about this. We need to stop being partisan, and we need to fix this very important program.

ALLOW SGT. CARLOS LAZO INTO CUBA

(Mr. FLAKE asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. FLAKE. Madam Speaker, I rise today to draw attention to the case of Carlos Lazo. Sergeant Lazo has served our country honorably in Iraq. There has been a lot of talk about our soldiers in Iraq today. This sergeant returned from Iraq a while ago and wanted to visit his two children in Cuba. Carlos is a Cuban American who escaped that country on a raft several years ago.

He would like to go back, but our government will not let him. You see, he has visited Cuba once in the past 3 years, and that is all you are allowed under current policy. So this soldier, who received a Bronze Star in Iraq for his service and many other accolades, is not trusted by our government to visit his own family in Cuba.

This policy is wrong. The same policy prohibits a child with parents in Cuba from visiting them more than once every 3 years. So if your father dies one year, you go to his funeral. If your mother dies the next year, you cannot go to hers. How is that fair? Why is our government doing this?

We need to change this policy, Madam Speaker, and this week we may have an opportunity to do so. I would encourage my colleagues to join me in this endeavor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken later today.

JUNK FAX PREVENTION ACT OF 2005

Mr. UPTON. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 714) to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

The Clerk read as follows:

S. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Junk Fax Prevention Act of 2005".

SEC. 2. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Section 227(b)(1)(C) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

"(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

"(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient;

"(ii) the sender obtained the number of the telephone facsimile machine through—

"(I) the voluntary communication of such number, within the context of such established business relationship, from the recipient of the unsolicited advertisement, or

"(II) a directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution,

except that this clause shall not apply in the case of an unsolicited advertisement that is sent based on an established business relationship with the recipient that was in existence before the date of enactment of the Junk Fax Prevention Act of 2005 if the sender possessed the facsimile machine number of the recipient before such date of enactment; and

"(iii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D),

except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or"

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) The term 'established business relationship', for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

"(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

"(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G))."

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

"(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

"(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

"(iii) the notice sets forth the requirements for a request under subparagraph (E);

"(iv) the notice includes—

"(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

“(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

“(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request at any time on any day of the week; and

“(vi) the notice complies with the requirements of subsection (d);”.

(d) **REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.**—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c), is further amended by adding at the end the following:

“(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

“(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

“(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

“(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;”.

(e) **AUTHORITY TO ESTABLISH NONPROFIT EXCEPTION.**—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c) and (d), is further amended by adding at the end the following:

“(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association’s tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(iii), except that the Commission may take action under this subparagraph only—

“(i) by regulation issued after public notice and opportunity for public comment; and

“(ii) if the Commission determines that such notice required by paragraph (1)(C)(iii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements; and”.

(f) **AUTHORITY TO ESTABLISH TIME LIMIT ON ESTABLISHED BUSINESS RELATIONSHIP EXCEPTION.**—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c), (d), and (e) of this section, is further amended by adding at the end the following:

“(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship, however, before establishing any such limits, the Commission shall—

“(I) determine whether the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of

unsolicited advertisements to telephone facsimile machines;

“(II) determine whether a significant number of any such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

“(III) evaluate the costs to senders of demonstrating the existence of an established business relationship within a specified period of time and the benefits to recipients of establishing a limitation on such established business relationship; and

“(IV) determine whether with respect to small businesses, the costs would not be unduly burdensome; and

“(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-month period that begins on the date of the enactment of the Junk Fax Prevention Act of 2005.”.

(g) **UNSOLICITED ADVERTISEMENT.**—Section 227(a)(5) of the Communications Act of 1934, as so redesignated by subsection (b)(1), is amended by inserting “, in writing or otherwise” before the period at the end.

(h) **REGULATIONS.**—Except as provided in section 227(b)(2)(G)(ii) of the Communications Act of 1934 (as added by subsection (f)), not later than 270 days after the date of enactment of this Act, the Federal Communications Commission shall issue regulations to implement the amendments made by this section.

SEC. 3. FCC ANNUAL REPORT REGARDING JUNK FAX ENFORCEMENT.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended by adding at the end the following:

“(g) **JUNK FAX ENFORCEMENT REPORT.**—The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

“(1) the number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission’s rules;

“(2) the number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

“(3) the number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

“(4) for each notice referred to in paragraph (3)—

“(A) the amount of the proposed forfeiture penalty involved;

“(B) the person to whom the notice was issued;

“(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

“(D) the status of the proceeding;

“(5) the number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

“(6) for each forfeiture order referred to in paragraph (5)—

“(A) the amount of the penalty imposed by the order;

“(B) the person to whom the order was issued;

“(C) whether the forfeiture penalty has been paid; and

“(D) the amount paid;

“(7) for each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty; and

“(8) for each case in which the Commission referred such an order for recovery—

“(A) the number of days from the date the Commission issued such order to the date of such referral;

“(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

“(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.”.

SEC. 4. GAO STUDY OF JUNK FAX ENFORCEMENT.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study regarding complaints received by the Federal Communications Commission concerning unsolicited advertisements sent to telephone facsimile machines, which study shall determine—

(1) the mechanisms established by the Commission to receive, investigate, and respond to such complaints;

(2) the level of enforcement success achieved by the Commission regarding such complaints;

(3) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints; and

(4) whether additional enforcement measures are necessary to protect consumers, including recommendations regarding such additional enforcement measures.

(b) **ADDITIONAL ENFORCEMENT REMEDIES.**—In conducting the analysis and making the recommendations required under subsection (a)(4), the Comptroller General shall specifically examine—

(1) the adequacy of existing statutory enforcement actions available to the Commission;

(2) the adequacy of existing statutory enforcement actions and remedies available to consumers;

(3) the impact of existing statutory enforcement remedies on senders of facsimiles;

(4) whether increasing the amount of financial penalties is warranted to achieve greater deterrent effect; and

(5) whether establishing penalties and enforcement actions for repeat violators or abusive violations similar to those established under section 1037 of title 18, United States Code, would have a greater deterrent effect.

(c) **REPORT.**—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Madam Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 714.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 714, the Junk Fax Prevention Act of 2005, legislation very similar to the bill which this House passed in the last Congress that had been sponsored by me, the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Texas (Mr. BARTON), and the gentleman from Michigan (Mr. DINGELL). I want to thank those Members for their hard work and bipartisan cooperation, not only last year, but this year as well.

I also want to thank the House leadership for agreeing to expedite consideration of this very important legislation, because June 30, later this week, is when the sands of the hourglass were about to run out on the current stay of the FCC's new junk fax rules which this legislation fixes. No doubt time is of the essence and passage of this legislation is long overdue, that is for sure.

It is important to note that this bill does not overturn the ban on the faxing of unsolicited advertisements which has been outlawed since the passage of the Telephone Consumer Protection Act of 1991. So this bill does not protect the senders of those annoying, unsolicited faxes which so many of our constituents get that advertise purported investment opportunities, mortgage refinancing opportunities, vacation packages, who knows what, always sent by unfamiliar firms with whom our constituents have never done business.

I presume these firms are at best fly-by-night outfits, or at worst scam artists. In all events, they appear to be nuisances and violators of the Federal junk fax law, and this bill does not change that. Rather, the bill would clearly reinstate the FCC's previous rules which permitted businesses and associations to send faxes to those with whom they had "an established business relationship" without first having to get written permission slips from them.

If we do not reinstate the FCC's previous rules, the cost of complying with the FCC's new rules will be enormous, and it will severely hamper legitimate fax communications between businesses and their consumers and between associations and their members.

Additionally, and importantly, the bill would establish new opt-out safeguards to provide additional protections for fax recipients. Under the bill, senders of faxes must alert recipients of their right to opt out of future faxes and senders must abide by such requests. That is an additional level of protection that consumers do not have under the current law.

This Junk Fax Prevention Act is commonsense regulatory relief. I want

to thank again the gentleman from Texas (Mr. BARTON), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY) for their bipartisan cooperation on this bill; and I would urge all of my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. MARKEY. Madam Speaker, I yield myself such time as I may consume.

(Mr. MARKEY asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. MARKEY. Madam Speaker, I rise in full support of this legislation. I begin with my congratulations and thanks to the gentleman from Michigan (Mr. UPTON), the chairman of the subcommittee. He and I worked in the last session, along with the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL) and other members of our committee, in order to draft legislation, which is very similar to the legislation which we are passing here today.

I would like, if it is permissible within the rules, to also thank the Democrat and Republican Members of the other body for their work on this legislation as well. We truly passed this legislation in a bicameral, bipartisan fashion.

First, let me state that back in ancient, prehistoric political times, back in 1991, that I was the principal House sponsor of the Telephone Consumer Protection Act, which contained the original junk fax prohibition. In 1991, that legislation passed this body and this general prohibition against junk faxes became law because of this intrusive form of advertising.

Every time someone junk faxes you, it is your paper that is coming out of the machine. You are paying for that paper. Your machine is tied up. It is just absolutely one of the most irritating things to people, to have to pay for someone else coming into your home or your business when you do not want them there. It is essentially a tax which is paid by the recipient of something that they never asked for in the first place.

This is something that ultimately takes up precious time as well. The machine is tied up, there is too much clutter that is associated with it, and important faxes are lost in the midst of the pile of junk faxes. How many people have just taken a pile of junk faxes, thrown it away, and in the middle of it was a fax you really wanted from someone, but you were just so ticked off by this generally unwanted clutter which has come into your home or your business.

So I think it is important to emphasize that the bill we bring to the House floor today retains the general prohibition against sending junk faxes. In other words, sending an unsolicited facsimile advertisement is against the law. We are not changing the law or

the policy with respect to this. Sending a junk fax was illegal, and it remains illegal under this bill.

Neither are we changing any of the statutory enforcement mechanisms available to the Federal Communications Commission or to the individual consumers themselves in this bill. The legislation we are proposing will address certain provisions affecting an exception to the general prohibition against sending junk faxes and will improve the bill in these areas.

□ 1045

I think that it cannot be emphasized enough how this bill is the product, again, of the bipartisan work that both parties have engaged in over the last 2 or 3 years to reach today's final product, and I urge the House to adopt unanimously this legislation today.

Madam Speaker, I rise in support of this bill. This legislation builds upon legislation that was passed by the House in the last Congress and which this year was negotiated out between both Democratic and Republican members in the other body over a number of months. I encourage members to support this legislation today.

First, let me state that I was the principal House sponsor of the Telephone Consumer Protection Act (TCPA) of 1991, which contained the original junk fax prohibition. Congress endorsed my call in 1991 for a general prohibition against junk faxes because of the intrusive nature of that form of advertising. Junk faxes represent a form of advertising in which the ad is essentially paid for by the recipient. The recipient of a junk fax pays for the fax paper and printer costs, pays in the form of precious lost time as the machine is tied up, and also in the form of the clutter in which important faxes are lost in the midst of a pile of junk faxes.

I think it is important to emphasize that the bill we bring to the House floor today retains the general prohibition against sending junk faxes. In other words, sending an unsolicited facsimile advertisement is against the law. We are not changing the law or the policy with respect to this—sending a junk fax was illegal and remains illegal under this bill. Neither are we changing any of the statutory enforcement mechanisms available to the FCC or consumers in this bill.

The legislation we are proposing will address certain provisions affecting an exception to the general prohibition against sending junk faxes and will improve the bill in these areas. Since the FCC originally implemented the 1991 junk fax provisions of the TCPA, Commission regulations contained an exception for faxes that were sent because an "established business relationship" existed between the sender and the recipient. These regulations were in place and the ability to send junk faxes based upon this exception was permitted by the Commission for over a decade.

This concept of an "established business relationship" permitted a commercial entity to invoke its ability to demonstrate such a relationship with a consumer in order to contact that consumer in spite of the general prohibitions of the law. The FCC has more recently determined that the term "established business relationship" was not specifically included in the provisions addressing junk faxes in the TCPA

and therefore changed its regulations. The new rules proposed by the Commission require “written” permission from consumers and these new rules have been stayed from going into effect until June 30th of this year, just a few short days away.

The legislation before us is designed to put specific language into the statute permitting an “established business relationship” exception to the general prohibition against junk faxes. Many businesses have complained that written permission is too onerous a regulatory requirement for many of the faxes that they stipulate are routinely sent in the ordinary course of business to established customers or customers requesting such faxes. This has been done by reputable business entities presumably without complaints from the recipients of such faxes.

We must recognize, however, that many small businesses and residential consumers find many of these unsolicited faxes, including those faxes sent because a valid claim of an “established business relationship” was being asserted, to be a considerable irritant and strongly object to receiving them. The legislation, therefore, addresses additional issues, including putting into the statute an “opt-out” ability for consumers to object to receiving junk faxes, even when such faxes are sent to them based upon an established business relationship. For the decade that the original FCC regulations were in place, many consumers simply were not aware of the FCC’s established business relationship exception, nor did very many know they had an ability to stop these faxes or any clear way in which to effectuate such a request.

The bill the House is considering includes new provisions requiring an “opt-out” notice and policy that we will add to the statute. The bill requires junk faxes to include, on the first page, a clear and conspicuous notice to consumers that they have the right not to receive future junk faxes from the sender. Second, the notice must include a domestic contact telephone number and fax number for consumers to transmit a request not to receive future faxes.

Third, the substitute requires the notice to conform with the Commission’s technical and procedural standards for sending faxes under Section 227(d) of the law, which include the requirement to identify the entity sending the facsimile advertisement. This is an important provision because one of the biggest complaints from the FCC at the hearing, and with other law enforcement entities and aggrieved consumers, is that they have had difficulty legally identifying the source of many of the unsolicited faxes. In addition, there were some senders of junk faxes who evidently and falsely believed that simply because they were sending an unsolicited fax based upon their ability to prove they had an “established business relationship” with a consumer, and thus did not have to abide by the general prohibition against such faxes, that this also meant they did not have to abide by the other FCC and statutory technical rules. These statutory and regulatory rules include requirements that junk fax senders identify themselves in such faxes. Law enforcement entities and consumers need to be able to find the legal business name or widely recognized trade name of the entity sending a junk fax in violation of the rules in order to pursue enforcement actions.

Fourth, this bill makes it clear that a consumer can “opt-out” of receiving faxes to multiple machines, if they have more than one, rather than opting out solely for the particular machine that received the junk fax. Fifth, in this legislation the Commission is tasked with exploring additional mechanisms by which a consumer might opt-out, such as in person or by email or regular mail, and also requests that the Commission establish cost-free ways by which consumers can opt-out. These notice and opt-out requirements all represent new provisions to the law for which existing enforcement remedies will apply.

This legislation also includes the ability for the FCC to limit the duration of an established business relationship notwithstanding the fact that the law would include an opt-out notice and ability which avails consumers of the right to opt-out of receiving faxes at any point in time. I believe this is an important concept and one which deals with the legitimate expectations of consumers. If a consumer buys something from a store, consumers might expect to hear from that store within a reasonable period of time. Over time however, a consumer’s expectation changes and there is a time after which the established business relationship can be said to have lapsed.

Finally, I think it is important to take a comprehensive look at overall enforcement of the junk fax law. I am concerned that some of the most egregious junk fax operations, the entities that broadcast such faxes to millions, often escape enforcement. They may be found guilty, cited by the FCC and sometimes fined—but often it appears as if they either ignore the fines, skip town, or live overseas. For these reasons the bill includes provisions that will give us an annual accounting of the FCC’s enforcement activities as well as a GAO analysis of what additional enforcement tools may be necessary to provide sufficient deterrent, especially to the most egregious and abusive junk fax senders.

Again, I want to commend Chairman UPTON and Chairman BARTON for their work on this bill, and in particular for their willingness and openness in working with me and Mr. DINGELL in crafting the compromises needed to achieve consensus. I encourage all the members to support it.

Madam Speaker, I yield back the balance of my time.

Mr. UPTON. Madam Speaker, I yield myself such time as I may consume.

In closing, let me just say that I welcome my friend’s comments. I would only say that we can now refer to “the other body” as “the Senate.” We changed the rules beginning with this Congress, so we do not need to damn the other side by saying “the other body;” we can now thank them for their efforts, and this is maybe the first time that has ever happened. But we applaud their efforts led by Chairman STEVENS and others in the Senate.

Mr. MARKEY. Madam Speaker, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Madam Speaker, I thank the gentleman very much, because this is an incantation which I have never actually been able to make legally under the rules of the House in my 29 years in this body, so I would

like for the first time to utter the phrase: I would like to thank the Senate for its work on this legislation. It is much appreciated.

Mr. UPTON. Madam Speaker, I thought the gentleman might want to revise and extend since we had something so gracious coming from the other body now called the Senate. But I want to thank them as well on a bipartisan basis for getting this legislation expedited to the floor. Madam Speaker, I would ask all of my colleagues to support this legislation.

Mr. GENE GREEN of Texas. Madam Speaker, I rise in support of S. 714, the Junk Fax Prevention Act of 2005.

The FCC’s recent proposal to require written permission to send commercial fax messages created a great deal of controversy, and I support this small amendment to the Junk Fax law that will make the larger law work better.

I am a strong supporter of the Telephone Consumer Protection Act and its ban on unsolicited commercial faxes, which place an undue financial burden on small business and individual recipients.

It’s one thing to have to receive a solicited telemarketer’s call—it’s even worse to have to pay for it by having to replace the paper from your fax machine.

However, I agree that the explicit, written notification requirement contemplated by the FCC in its proposed rulemaking is problematic for some situations like trade associations, realtors, and others who already have existing business relationships.

As a result, I am pleased to join the bipartisan leadership of the House Energy and Commerce Committee in supporting S. 714, the Junk Fax Prevention Act of 2005.

This Act corrects the FCC’s rule and allows for businesses to communicate with other businesses with whom they have an established business relationship, as long as they allow business to “opt-out” of future faxes.

This new law will not weaken protections for residential consumers or protection for businesses from unsolicited ads for printer toner, vacation deals, and other sales pitches that cost consumers money.

This new law will prevent businesses and realtors from having to fill out paperwork to communicate with each other about an existing business relationship.

Madam Speaker, I support this bill and urge its adoption by the full House.

Mr. UPTON. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the Senate bill, S. 714.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3057, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2006

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, by direction