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2D SESSION

# H. R. 2929

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IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2004

Received

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## AN ACT

To protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Securely Protect Your-  
3 self Against Cyber Trespass Act” or the “SPY ACT”.

4 **SEC. 2. PROHIBITION OF DECEPTIVE ACTS OR PRACTICES**  
5 **RELATING TO SPYWARE.**

6       (a) PROHIBITION.—It is unlawful for any person,  
7 who is not the owner or authorized user of a protected  
8 computer, to engage in deceptive acts or practices that in-  
9 volve any of the following conduct with respect to the pro-  
10 tected computer:

11           (1) Taking control of the computer by—

12                   (A) utilizing such computer to send unso-  
13 licited information or material from the pro-  
14 tected computer to others;

15                   (B) diverting the Internet browser of the  
16 computer, or similar program of the computer  
17 used to access and navigate the Internet—

18                           (i) without authorization of the owner  
19 or authorized user of the computer; and

20                           (ii) away from the site the user in-  
21 tended to view, to one or more other Web  
22 pages, such that the user is prevented from  
23 viewing the content at the intended Web  
24 page, unless such diverting is otherwise au-  
25 thorized;

1           (C) accessing or using the modem, or  
2           Internet connection or service, for the computer  
3           and thereby causing damage to the computer or  
4           causing the owner or authorized user to incur  
5           unauthorized financial charges;

6           (D) using the computer as part of an ac-  
7           tivity performed by a group of computers that  
8           causes damage to another computer; or

9           (E) delivering advertisements that a user  
10          of the computer cannot close without turning  
11          off the computer or closing all sessions of the  
12          Internet browser for the computer.

13          (2) Modifying settings related to use of the  
14          computer or to the computer's access to or use of  
15          the Internet by altering—

16                (A) the Web page that appears when the  
17                owner or authorized user launches an Internet  
18                browser or similar program used to access and  
19                navigate the Internet;

20                (B) the default provider used to access or  
21                search the Internet, or other existing Internet  
22                connections settings;

23                (C) a list of bookmarks used by the com-  
24                puter to access Web pages; or

1           (D) security or other settings of the com-  
2           puter that protect information about the owner  
3           or authorized user for the purposes of causing  
4           damage or harm to the computer or owner or  
5           user.

6           (3) Collecting personally identifiable informa-  
7           tion through the use of a keystroke logging function.

8           (4) Inducing the owner or authorized user to  
9           install a computer software component onto the  
10          computer, or preventing reasonable efforts to block  
11          the installation or execution of, or to disable, a com-  
12          puter software component by—

13               (A) presenting the owner or authorized  
14               user with an option to decline installation of a  
15               software component such that, when the option  
16               is selected by the owner or authorized user, the  
17               installation nevertheless proceeds; or

18               (B) causing a computer software compo-  
19               nent that the owner or authorized user has  
20               properly removed or disabled to automatically  
21               reinstall or reactivate on the computer.

22          (5) Misrepresenting that installing a separate  
23          software component or providing log-in and pass-  
24          word information is necessary for security or privacy  
25          reasons, or that installing a separate software com-

1       ponent is necessary to open, view, or play a par-  
2       ticular type of content.

3           (6) Inducing the owner or authorized user to  
4       install or execute computer software by misrepre-  
5       senting the identity or authority of the person or en-  
6       tity providing the computer software to the owner or  
7       user.

8           (7) Inducing the owner or authorized user to  
9       provide personally identifiable, password, or account  
10      information to another person—

11           (A) by misrepresenting the identity of the  
12      person seeking the information; or

13           (B) without the authority of the intended  
14      recipient of the information.

15           (8) Removing, disabling, or rendering inoper-  
16      ative a security, anti-spyware, or anti-virus tech-  
17      nology installed on the computer.

18           (9) Installing or executing on the computer one  
19      or more additional computer software components  
20      with the intent of causing a person to use such com-  
21      ponents in a way that violates any other provision of  
22      this section.

23      (b) GUIDANCE.—The Commission shall issue guid-  
24      ance regarding compliance with and violations of this sec-

1 tion. This subsection shall take effect upon the date of  
2 the enactment of this Act.

3 (c) EFFECTIVE DATE.—Except as provided in sub-  
4 section (b), this section shall take effect upon the expira-  
5 tion of the 6-month period that begins on the date of the  
6 enactment of this Act.

7 **SEC. 3. PROHIBITION OF COLLECTION OF CERTAIN INFOR-**  
8 **MATION WITHOUT NOTICE AND CONSENT.**

9 (a) OPT-IN REQUIREMENT.—Except as provided in  
10 subsection (e), it is unlawful for any person—

11 (1) to transmit to a protected computer, which  
12 is not owned by such person and for which such per-  
13 son is not an authorized user, any information col-  
14 lection program, unless—

15 (A) such information collection program  
16 provides notice in accordance with subsection  
17 (c) before execution of any of the information  
18 collection functions of the program; and

19 (B) such information collection program  
20 includes the functions required under sub-  
21 section (d); or

22 (2) to execute any information collection pro-  
23 gram installed on such a protected computer un-  
24 less—

1 (A) before execution of any of the informa-  
2 tion collection functions of the program, the  
3 owner or an authorized user of the protected  
4 computer has consented to such execution pur-  
5 suant to notice in accordance with subsection  
6 (c); and

7 (B) such information collection program  
8 includes the functions required under sub-  
9 section (d).

10 (b) INFORMATION COLLECTION PROGRAM.—For pur-  
11 poses of this section, the term “information collection pro-  
12 gram” means computer software that—

13 (1)(A) collects personally identifiable informa-  
14 tion; and

15 (B)(i) sends such information to a person other  
16 than the owner or authorized user of the computer,  
17 or

18 (ii) uses such information to deliver advertising  
19 to, or display advertising, on the computer; or

20 (2)(A) collects information regarding the Web  
21 pages accessed using the computer; and

22 (B) uses such information to deliver advertising  
23 to, or display advertising on, the computer.

24 (c) NOTICE AND CONSENT.—

1           (1) IN GENERAL.—Notice in accordance with  
2           this subsection with respect to an information collec-  
3           tion program is clear and conspicuous notice in plain  
4           language, set forth as the Commission shall provide,  
5           that meets all of the following requirements:

6                   (A) The notice clearly distinguishes such  
7                   notice from any other information visually pre-  
8                   sented contemporaneously on the protected  
9                   computer.

10                  (B) The notice contains one of the fol-  
11                  lowing statements, as applicable, or a substan-  
12                  tially similar statement:

13                          (i) With respect to an information col-  
14                          lection program described in subsection  
15                          (b)(1): “This program will collect and  
16                          transmit information about you. Do you  
17                          accept?”.

18                          (ii) With respect to an information  
19                          collection program described in subsection  
20                          (b)(2): “This program will collect informa-  
21                          tion about Web pages you access and will  
22                          use that information to display advertising  
23                          on your computer. Do you accept?”.

24                          (iii) With respect to an information  
25                          collection program that performs the ac-



tions described in both paragraphs (1) and (2) of subsection (b): “This program will collect and transmit information about you and your computer use and will collect information about Web pages you access and use that information to display advertising on your computer. Do you accept?”.

(C) The notice provides for the user—

(i) to grant or deny consent referred to in subsection (a) by selecting an option to grant or deny such consent; and

(ii) to abandon or cancel the transmission or execution referred to in subsection (a) without granting or denying such consent.

(D) The notice provides an option for the user to select to display on the computer, before granting or denying consent using the option required under subparagraph (C), a clear description of—

(i) the types of information to be collected and sent (if any) by the information collection program;

(ii) the purpose for which such information is to be collected and sent; and

1 (iii) in the case of an information col-  
2 lection program that first executes any of  
3 the information collection functions of the  
4 program together with the first execution  
5 of other computer software, the identity of  
6 any such software that is an information  
7 collection program.

8 (E) The notice provides for concurrent dis-  
9 play of the information required under subpara-  
10 graphs (B) and (C) and the option required  
11 under subparagraph (D) until the user—

12 (i) grants or denies consent using the  
13 option required under subparagraph (C)(i);

14 (ii) abandons or cancels the trans-  
15 mission or execution pursuant to subpara-  
16 graph (C)(ii); or

17 (ii) selects the option required under  
18 subparagraph (D).

19 (2) SINGLE NOTICE.—The Commission shall  
20 provide that, in the case in which multiple informa-  
21 tion collection programs are provided to the pro-  
22 tected computer together, or as part of a suite of  
23 functionally-related software, the notice require-  
24 ments of paragraphs (1)(A) and (2)(A) of subsection  
25 (a) may be met by providing, before execution of any

1 of the information collection functions of the pro-  
2 grams, clear and conspicuous notice in plain lan-  
3 guage in accordance with paragraph (1) of this sub-  
4 section by means of a single notice that applies to  
5 all such information collection programs, except that  
6 such notice shall provide the option under subpara-  
7 graph (D) of paragraph (1) of this subsection with  
8 respect to each such information collection program.

9 (3) CHANGE IN INFORMATION COLLECTION.—If  
10 an owner or authorized user has granted consent to  
11 execution of an information collection program pur-  
12 suant to a notice in accordance with this subsection:

13 (A) IN GENERAL.—No subsequent such  
14 notice is required, except as provided in sub-  
15 paragraph (B).

16 (B) SUBSEQUENT NOTICE.—The person  
17 who transmitted the program shall provide an-  
18 other notice in accordance with this subsection  
19 and obtain consent before such program may be  
20 used to collect or send information of a type or  
21 for a purpose that is materially different from,  
22 and outside the scope of, the type or purpose  
23 set forth in the initial or any previous notice.

24 (4) REGULATIONS.—The Commission shall  
25 issue regulations to carry out this subsection.

1 (d) REQUIRED FUNCTIONS.—The functions required  
2 under this subsection to be included in an information col-  
3 lection program that executes any information collection  
4 functions with respect to a protected computer are as fol-  
5 lows:

6 (1) DISABLING FUNCTION.—With respect to  
7 any information collection program, a function of  
8 the program that allows a user of the program to re-  
9 move the program or disable operation of the pro-  
10 gram with respect to such protected computer by a  
11 function that—

12 (A) is easily identifiable to a user of the  
13 computer; and

14 (B) can be performed without undue effort  
15 or knowledge by the user of the protected com-  
16 puter.

17 (2) IDENTITY FUNCTION.—With respect only to  
18 an information collection program that uses informa-  
19 tion collected in the manner described in paragraph  
20 (1)(B)(ii) or (2)(B) of subsection (b), a function of  
21 the program that provides that each display of an  
22 advertisement directed or displayed using such infor-  
23 mation when the owner or authorized user is access-  
24 ing a Web page or online location other than of the  
25 provider of the software is accompanied by the name

1 of the information collection program, a logogram or  
2 trademark used for the exclusive purpose of identi-  
3 fying the program, or a statement or other informa-  
4 tion sufficient to clearly identify the program.

5 (3) RULEMAKING.—The Commission may issue  
6 regulations to carry out this subsection.

7 (e) LIMITATION ON LIABILITY.—A telecommuni-  
8 cations carrier, a provider of information service or inter-  
9 active computer service, a cable operator, or a provider  
10 of transmission capability shall not be liable under this  
11 section to the extent that the carrier, operator, or pro-  
12 vider—

13 (1) transmits, routes, hosts, stores, or provides  
14 connections for an information collection program  
15 through a system or network controlled or operated  
16 by or for the carrier, operator, or provider; or

17 (2) provides an information location tool, such  
18 as a directory, index, reference, pointer, or hypertext  
19 link, through which the owner or user of a protected  
20 computer locates an information collection program.

21 **SEC. 4. ENFORCEMENT.**

22 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—  
23 This Act shall be enforced by the Commission under the  
24 Federal Trade Commission Act (15 U.S.C. 41 et seq.).  
25 A violation of any provision of this Act or of a regulation

1 issued under this Act committed with actual knowledge  
2 or knowledge fairly implied on the basis of objective cir-  
3 cumstances that such act is unfair or deceptive or violates  
4 this Act shall be treated as an unfair or deceptive act or  
5 practice violating a rule promulgated under section 18 of  
6 the Federal Trade Commission Act (15 U.S.C. 57a).

7 (b) PENALTY FOR PATTERN OR PRACTICE VIOLA-  
8 TIONS.—

9 (1) IN GENERAL.—Notwithstanding subsection  
10 (a) and the Federal Trade Commission Act, in the  
11 case of a person who engages in a pattern or prac-  
12 tice that violates section 2 or 3, the Commission  
13 may, in its discretion, seek a civil penalty for such  
14 pattern or practice of violations in an amount, as de-  
15 termined by the Commission, of not more than—

16 (A) \$3,000,000 for each violation of sec-  
17 tion 2; and

18 (B) \$1,000,000 for each violation of sec-  
19 tion 3.

20 (2) TREATMENT OF SINGLE ACTION OR CON-  
21 DUCT.—In applying paragraph (1)—

22 (A) any single action or conduct that vio-  
23 lates section 2 or 3 with respect to multiple  
24 protected computers shall be treated as a single  
25 violation; and

1 (B) any single action or conduct that vio-  
2 lates more than one paragraph of section 2(a)  
3 shall be considered multiple violations, based on  
4 the number of such paragraphs violated.

5 (c) EXCLUSIVENESS OF REMEDIES.—The remedies  
6 in this section (including remedies available to the Com-  
7 mission under the Federal Trade Commission Act) are the  
8 exclusive remedies for violations of this Act.

9 (d) EFFECTIVE DATE.—This section shall take effect  
10 on the date of the enactment of this Act, but only to the  
11 extent that this section applies to violations of section  
12 2(a).

13 **SEC. 5. LIMITATIONS.**

14 (a) LAW ENFORCEMENT AUTHORITY.—Sections 2  
15 and 3 of this Act shall not apply to—

16 (1) any act taken by a law enforcement agent  
17 in the performance of official duties; or

18 (2) the transmission or execution of an infor-  
19 mation collection program in compliance with a law  
20 enforcement, investigatory, national security, or reg-  
21 ulatory agency or department of the United States  
22 or any State in response to a request or demand  
23 made under authority granted to that agency or de-  
24 partment, including a warrant issued under the Fed-  
25 eral Rules of Criminal Procedure, an equivalent

1 State warrant, a court order, or other lawful proc-  
2 ess.

3 (b) EXCEPTION RELATING TO SECURITY.—Nothing  
4 in this Act shall apply to—

5 (1) any monitoring of, or interaction with, a  
6 subscriber's Internet or other network connection or  
7 service, or a protected computer, by a telecommuni-  
8 cations carrier, cable operator, computer hardware  
9 or software provider, or provider of information serv-  
10 ice or interactive computer service, to the extent that  
11 such monitoring or interaction is for network or  
12 computer security purposes, diagnostics, technical  
13 support, or repair, or for the detection or prevention  
14 of fraudulent activities; or

15 (2) a discrete interaction with a protected com-  
16 puter by a provider of computer software solely to  
17 determine whether the user of the computer is au-  
18 thorized to use such software, that occurs upon—

19 (A) initialization of the software; or

20 (B) an affirmative request by the owner or  
21 authorized user for an update of, addition to, or  
22 technical service for, the software.

23 (c) GOOD SAMARITAN PROTECTION.—No provider of  
24 computer software or of interactive computer service may  
25 be held liable under this Act on account of any action vol-



1 untarily taken, or service provided, in good faith to remove  
 2 or disable a program used to violate section 2 or 3 that  
 3 is installed on a computer of a customer of such provider,  
 4 if such provider notifies the customer and obtains the con-  
 5 sent of the customer before undertaking such action or  
 6 providing such service.

7 (d) LIMITATION ON LIABILITY.—A manufacturer or  
 8 retailer of computer equipment shall not be liable under  
 9 this Act to the extent that the manufacturer or retailer  
 10 is providing third party branded software that is installed  
 11 on the equipment the manufacturer or retailer is manufac-  
 12 turing or selling.

13 **SEC. 6. EFFECT ON OTHER LAWS.**

14 (a) PREEMPTION OF STATE LAW.—

15 (1) PREEMPTION OF SPYWARE LAWS.—This  
 16 Act supersedes any provision of a statute, regula-  
 17 tion, or rule of a State or political subdivision of a  
 18 State that expressly regulates—

19 (A) deceptive conduct with respect to com-  
 20 puters similar to that described in section 2(a);

21 (B) the transmission or execution of a  
 22 computer program similar to that described in  
 23 section 3; or

1 (C) the use of computer software that dis-  
2 plays advertising content based on the Web  
3 pages accessed using a computer.

4 (2) ADDITIONAL PREEMPTION.—

5 (A) IN GENERAL.—No person other than  
6 the Attorney General of a State may bring a  
7 civil action under the law of any State if such  
8 action is premised in whole or in part upon the  
9 defendant violating any provision of this Act.

10 (B) PROTECTION OF CONSUMER PROTEC-  
11 TION LAWS.—This paragraph shall not be con-  
12 strued to limit the enforcement of any State  
13 consumer protection law by an Attorney Gen-  
14 eral of a State.

15 (3) PROTECTION OF CERTAIN STATE LAWS.—  
16 This Act shall not be construed to preempt the ap-  
17 plicability of—

18 (A) State trespass, contract, or tort law; or

19 (B) other State laws to the extent that  
20 those laws relate to acts of fraud.

21 (b) PRESERVATION OF FTC AUTHORITY.—Nothing  
22 in this Act may be construed in any way to limit or affect  
23 the Commission's authority under any other provision of  
24 law, including the authority to issue advisory opinions

1 (under Part 1 of Volume 16 of the Code of Federal Regu-  
2 lations), policy statements, or guidance regarding this Act.

3 **SEC. 7. ANNUAL FTC REPORT.**

4 For the 12-month period that begins upon the effec-  
5 tive date under section 11(a) and for each 12-month pe-  
6 riod thereafter, the Commission shall submit a report to  
7 the Congress that—

8 (1) specifies the number and types of actions  
9 taken during such period to enforce sections 2(a)  
10 and 3, the disposition of each such action, any pen-  
11 alties levied in connection with such actions, and any  
12 penalties collected in connection with such actions;  
13 and

14 (2) describes the administrative structure and  
15 personnel and other resources committed by the  
16 Commission for enforcement of this Act during such  
17 period.

18 Each report under this subsection for a 12-month period  
19 shall be submitted not later than 90 days after the expira-  
20 tion of such period.

21 **SEC. 8. FTC REPORT ON COOKIES.**

22 (a) IN GENERAL.—Not later than the expiration of  
23 the 6-month period that begins on the date of the enact-  
24 ment of this Act, the Commission shall submit a report  
25 to the Congress regarding the use of tracking cookies in

1 the delivery or display of advertising to the owners and  
2 users of computers. The report shall examine and describe  
3 the methods by which such tracking cookies and the  
4 websites that place them on computers function separately  
5 and together, and the extent to which they are covered  
6 or affected by this Act. The report may include such rec-  
7 ommendations as the Commission considers necessary and  
8 appropriate, including treatment of tracking cookies under  
9 this Act or other laws.

10 (b) DEFINITION.—For purposes of this section, the  
11 term “tracking cookie” means a cookie or similar text or  
12 data file used alone or in conjunction with one or more  
13 websites to transmit or convey personally identifiable in-  
14 formation of a computer owner or user, or information re-  
15 garding Web pages accessed by the owner or user, to a  
16 party other than the intended recipient, for the purpose  
17 of—

18 (1) delivering or displaying advertising to the  
19 owner or user; or

20 (2) assisting the intended recipient to deliver or  
21 display advertising to the owner, user, or others.

22 (c) EFFECTIVE DATE.—This section shall take effect  
23 on the date of the enactment of this Act.

1 **SEC. 9. REGULATIONS.**

2 (a) IN GENERAL.—The Commission shall issue the  
3 regulations required by this Act not later than the expira-  
4 tion of the 6-month period beginning on the date of the  
5 enactment of this Act. Any regulations issued pursuant  
6 to this Act shall be issued in accordance with section 553  
7 of title 5, United States Code.

8 (b) EFFECTIVE DATE.—This section shall take effect  
9 on the date of the enactment of this Act.

10 **SEC. 10. DEFINITIONS.**

11 For purposes of this Act:

12 (1) CABLE OPERATOR.—The term “cable oper-  
13 ator” has the meaning given such term in section  
14 602 of the Communications Act of 1934 (47 U.S.C.  
15 522).

16 (2) COLLECT.—The term “collect”, when used  
17 with respect to information and for purposes only of  
18 section 3, does not include obtaining of the informa-  
19 tion by a party who is intended by the owner or au-  
20 thorized user of a protected computer to receive the  
21 information pursuant to the owner or authorized  
22 user—

23 (A) transferring the information to such  
24 intended recipient using the protected com-  
25 puter; or

1 (B) storing the information on the pro-  
2 tected computer in a manner so that it is acces-  
3 sible by such intended recipient.

4 (3) COMPUTER; PROTECTED COMPUTER.—The  
5 terms “computer” and “protected computer” have  
6 the meanings given such terms in section 1030(e) of  
7 title 18, United States Code.

8 (4) COMPUTER SOFTWARE.—

9 (A) IN GENERAL.—Except as provided in  
10 subparagraph (B), the term “computer soft-  
11 ware” means a set of statements or instructions  
12 that can be installed and executed on a com-  
13 puter for the purpose of bringing about a cer-  
14 tain result.

15 (B) EXCEPTION FOR COOKIES.—Such term  
16 does not include—

17 (i) a cookie or other text or data file  
18 that is placed on the computer system of  
19 a user by an Internet service provider,  
20 interactive computer service, or Internet  
21 website to return information to such pro-  
22 vider, service, or website; or

23 (ii) computer software that is placed  
24 on the computer system of a user by an  
25 Internet service provider, interactive com-

1           puter service, or Internet website solely to  
2           enable the user subsequently to use such  
3           provider or service or to access such  
4           website.

5           (5) COMMISSION.—The term “Commission”  
6           means the Federal Trade Commission.

7           (6) DAMAGE.—The term “damage” has the  
8           meaning given such term in section 1030(e) of title  
9           18, United States Code.

10          (7) DECEPTIVE ACTS OR PRACTICES.—The  
11          term “deceptive acts or practices” has the meaning  
12          applicable to such term for purposes of section 5 of  
13          the Federal Trade Commission Act (15 U.S.C. 45).

14          (8) DISABLE.—The term “disable” means, with  
15          respect to an information collection program, to per-  
16          manently prevent such program from executing any  
17          of the functions described in section 3(b) that such  
18          program is otherwise capable of executing (including  
19          by removing, deleting, or disabling the program), un-  
20          less the owner or operator of a protected computer  
21          takes a subsequent affirmative action to enable the  
22          execution of such functions.

23          (9) INFORMATION COLLECTION FUNCTIONS.—  
24          The term “information collection functions” means,  
25          with respect to an information collection program,

1 the functions of the program described in subsection  
2 (b) of section 3.

3 (10) INFORMATION SERVICE.—The term “infor-  
4 mation service” has the meaning given such term in  
5 section 3 of the Communications Act of 1934 (47  
6 U.S.C. 153).

7 (11) INTERACTIVE COMPUTER SERVICE.—The  
8 term “interactive computer service” has the meaning  
9 given such term in section 230(f) of the Communica-  
10 tions Act of 1934 (47 U.S.C. 230(f)).

11 (12) INTERNET.—The term “Internet” means  
12 collectively the myriad of computer and tele-  
13 communications facilities, including equipment and  
14 operating software, which comprise the inter-  
15 connected world-wide network of networks that em-  
16 ploy the Transmission Control Protocol/Internet  
17 Protocol, or any predecessor or successor protocols  
18 to such protocol, to communicate information of all  
19 kinds by wire or radio.

20 (13) PERSONALLY IDENTIFIABLE INFORMA-  
21 TION.—

22 (A) IN GENERAL.—The term “personally  
23 identifiable information” means the following  
24 information, to the extent only that such infor-



1           mation allows a living individual to be identified  
2           from that information:

3                   (i) First and last name of an indi-  
4                   vidual.

5                   (ii) A home or other physical address  
6                   of an individual, including street name,  
7                   name of a city or town, and zip code.

8                   (iii) An electronic mail address.

9                   (iv) A telephone number.

10                  (v) A social security number, tax iden-  
11                  tification number, passport number, driv-  
12                  er's license number, or any other govern-  
13                  ment-issued identification number.

14                  (vi) A credit card number.

15                  (vii) Any access code, password, or ac-  
16                  count number, other than an access code  
17                  or password transmitted by an owner or  
18                  authorized user of a protected computer to  
19                  the intended recipient to register for, or  
20                  log onto, a Web page or other Internet  
21                  service or a network connection or service  
22                  of a subscriber that is protected by an ac-  
23                  cess code or password.

24                  (viii) Date of birth, birth certificate  
25                  number, or place of birth of an individual,

1           except in the case of a date of birth trans-  
2           mitted or collected for the purpose of com-  
3           pliance with the law.

4           (B) RULEMAKING.—The Commission may,  
5           by regulation, add to the types of information  
6           specified under paragraph (1) that shall be con-  
7           sidered personally identifiable information for  
8           purposes of this Act, except that such informa-  
9           tion may not include any record of aggregate  
10          data that does not identify particular persons,  
11          particular computers, particular users of com-  
12          puters, or particular email addresses or other  
13          locations of computers with respect to the  
14          Internet.

15          (14) SUITE OF FUNCTIONALLY RELATED SOFT-  
16          WARE.—The term ‘suite of functionally related  
17          software’ means a group of computer software pro-  
18          grams distributed to an end user by a single pro-  
19          vider, which programs are necessary to enable fea-  
20          tures or functionalities of an integrated service of-  
21          fered by the provider.

22          (15) TELECOMMUNICATIONS CARRIER.—The  
23          term “telecommunications carrier” has the meaning  
24          given such term in section 3 of the Communications  
25          Act of 1934 (47 U.S.C. 153).

1           (16) TRANSMIT.—The term “transmit” means,  
2       with respect to an information collection program,  
3       transmission by any means.

4           (17) WEB PAGE.—The term “Web page” means  
5       a location, with respect to the World Wide Web, that  
6       has a single Uniform Resource Locator or another  
7       single location with respect to the Internet, as the  
8       Federal Trade Commission may prescribe.

9   **SEC. 11. APPLICABILITY AND SUNSET.**

10       (a) EFFECTIVE DATE.—Except as specifically pro-  
11   vided otherwise in this Act, this Act shall take effect upon  
12   the expiration of the 12-month period that begins on the  
13   date of the enactment of this Act.

14       (b) APPLICABILITY.—Section 3 shall not apply to an  
15   information collection program installed on a protected  
16   computer before the effective date under subsection (a) of  
17   this section.

18       (c) SUNSET.—This Act shall not apply after Decem-  
19   ber 31, 2009.

      Passed the House of Representatives October 5,  
2004.

Attest:

JEFF TRANDAHL,

*Clerk.*