

109TH CONGRESS
1ST SESSION

H. R. 29

To protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mrs. BONO (for herself, Mr. TOWNS, Mr. BARTON of Texas, Mr. BUYER, Mr. GILLMOR, Mr. HALL, Mr. RADANOVICH, Mr. WALDEN of Oregon, Mr. FERGUSON, Mr. WHITFIELD, Mrs. CUBIN, Mr. STEARNS, Mr. BILIRAKIS, Mr. TERRY, and Mr. OTTER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

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

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

8 (1) Taking control of the computer by—

9 (A) utilizing such computer to send unso-
10 licited information or material from the pro-
11 tected computer to others;

12 (B) diverting the Internet browser of the
13 computer, or similar program of the computer
14 used to access and navigate the Internet—

15 (i) without authorization of the owner
16 or authorized user of the computer; and

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

23 (C) accessing or using the modem, or
24 Internet connection or service, for the computer
25 and thereby causing damage to the computer or

1 causing the owner or authorized user to incur
2 unauthorized financial charges;

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

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

10 (2) Modifying settings related to use of the
11 computer or to the computer's access to or use of
12 the Internet by altering—

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

17 (B) the default provider used to access or
18 search the Internet, or other existing Internet
19 connections settings;

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

22 (D) security or other settings of the com-
23 puter that protect information about the owner
24 or authorized user for the purposes of causing

1 damage or harm to the computer or owner or
2 user.

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

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

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

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

19 (5) Misrepresenting that installing a separate
20 software component or providing log-in and pass-
21 word information is necessary for security or privacy
22 reasons, or that installing a separate software com-
23 ponent is necessary to open, view, or play a par-
24 ticular type of content.

1 (6) Inducing the owner or authorized user to
2 install or execute computer software by misrepres-
3 enting the identity or authority of the person or en-
4 tity providing the computer software to the owner or
5 user.

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

9 (A) by misrepresenting the identity of the
10 person seeking the information; or

11 (B) without the authority of the intended
12 recipient of the information.

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

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

21 (b) GUIDANCE.—The Commission shall issue guid-
22 ance regarding compliance with and violations of this sec-
23 tion. This subsection shall take effect upon the date of
24 the enactment of this Act.

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

5 **SEC. 3. PROHIBITION OF COLLECTION OF CERTAIN INFOR-**
6 **MATION WITHOUT NOTICE AND CONSENT.**

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

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

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

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

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

23 (A) before execution of any of the informa-
24 tion collection functions of the program, the
25 owner or an authorized user of the protected

1 computer has consented to such execution pur-
2 suant to notice in accordance with subsection
3 (c); and

4 (B) such information collection program
5 includes the functions required under sub-
6 section (d).

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

10 (1)(A) collects personally identifiable informa-
11 tion; and

12 (B)(i) sends such information to a person other
13 than the owner or authorized user of the computer,
14 or

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

17 (2)(A) collects information regarding the Web
18 pages accessed using the computer; and

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

21 (c) NOTICE AND CONSENT.—

22 (1) IN GENERAL.—Notice in accordance with
23 this subsection with respect to an information collec-
24 tion program is clear and conspicuous notice in plain

1 language, set forth as the Commission shall provide,
2 that meets all of the following requirements:

3 (A) The notice clearly distinguishes such
4 notice from any other information visually pre-
5 sented contemporaneously on the protected
6 computer.

7 (B) The notice contains one of the fol-
8 lowing statements, as applicable, or a substan-
9 tially similar statement:

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

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

21 (iii) With respect to an information
22 collection program that performs the ac-
23 tions described in both paragraphs (1) and
24 (2) of subsection (b): “This program will
25 collect and transmit information about you

1 and your computer use and will collect in-
2 formation about Web pages you access and
3 use that information to display advertising
4 on your computer. Do you accept?’’.

5 (C) The notice provides for the user—

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

9 (ii) to abandon or cancel the trans-
10 mission or execution referred to in sub-
11 section (a) without granting or denying
12 such consent.

13 (D) The notice provides an option for the
14 user to select to display on the computer, before
15 granting or denying consent using the option
16 required under subparagraph (C), a clear de-
17 scription of—

18 (i) the types of information to be col-
19 lected and sent (if any) by the information
20 collection program;

21 (ii) the purpose for which such infor-
22 mation is to be collected and sent; and

23 (iii) in the case of an information col-
24 lection program that first executes any of
25 the information collection functions of the

1 program together with the first execution
2 of other computer software, the identity of
3 any such software that is an information
4 collection program.

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

9 (i) grants or denies consent using the
10 option required under subparagraph (C)(i);

11 (ii) abandons or cancels the trans-
12 mission or execution pursuant to subpara-
13 graph (C)(ii); or

14 (ii) selects the option required under
15 subparagraph (D).

16 (2) SINGLE NOTICE.—The Commission shall
17 provide that, in the case in which multiple informa-
18 tion collection programs are provided to the pro-
19 tected computer together, or as part of a suite of
20 functionally-related software, the notice require-
21 ments of paragraphs (1)(A) and (2)(A) of subsection
22 (a) may be met by providing, before execution of any
23 of the information collection functions of the pro-
24 grams, clear and conspicuous notice in plain lan-
25 guage in accordance with paragraph (1) of this sub-

1 section by means of a single notice that applies to
2 all such information collection programs, except that
3 such notice shall provide the option under subpara-
4 graph (D) of paragraph (1) of this subsection with
5 respect to each such information collection program.

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

10 (A) IN GENERAL.—No subsequent such
11 notice is required, except as provided in sub-
12 paragraph (B).

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

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

23 (d) REQUIRED FUNCTIONS.—The functions required
24 under this subsection to be included in an information col-
25 lection program that executes any information collection

1 functions with respect to a protected computer are as fol-
2 lows:

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

9 (A) is easily identifiable to a user of the
10 computer; and

11 (B) can be performed without undue effort
12 or knowledge by the user of the protected com-
13 puter.

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

1 fying the program, or a statement or other informa-
2 tion sufficient to clearly identify the program.

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

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

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

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

19 **SEC. 4. ENFORCEMENT.**

20 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—
21 This Act shall be enforced by the Commission under the
22 Federal Trade Commission Act (15 U.S.C. 41 et seq.).
23 A violation of any provision of this Act or of a regulation
24 issued under this Act committed with actual knowledge
25 or knowledge fairly implied on the basis of objective cir-

1 cumstances that such act is unfair or deceptive or violates
 2 this Act shall be treated as an unfair or deceptive act or
 3 practice violating a rule promulgated under section 18 of
 4 the Federal Trade Commission Act (15 U.S.C. 57a).

5 (b) PENALTY FOR PATTERN OR PRACTICE VIOLA-
 6 TIONS.—

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

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

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

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

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

24 (B) any single action or conduct that vio-
 25 lates more than one paragraph of section 2(a)

1 shall be considered multiple violations, based on
2 the number of such paragraphs violated.

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

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

11 **SEC. 5. LIMITATIONS.**

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

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

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

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

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

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

17 (A) initialization of the software; or

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

21 (c) GOOD SAMARITAN PROTECTION.—No provider of
22 computer software or of interactive computer service may
23 be held liable under this Act on account of any action vol-
24 untarily taken, or service provided, in good faith to remove
25 or disable a program used to violate section 2 or 3 that

1 is installed on a computer of a customer of such provider,
 2 if such provider notifies the customer and obtains the con-
 3 sent of the customer before undertaking such action or
 4 providing such service.

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

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

12 (a) PREEMPTION OF STATE LAW.—

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

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

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

22 (C) the use of computer software that dis-
 23 plays advertising content based on the Web
 24 pages accessed using a computer.

25 (2) ADDITIONAL PREEMPTION.—

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

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

11 (3) PROTECTION OF CERTAIN STATE LAWS.—
 12 This Act shall not be construed to preempt the ap-
 13 plicability of—

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

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

17 (b) PRESERVATION OF FTC AUTHORITY.—Nothing
 18 in this Act may be construed in any way to limit or affect
 19 the Commission’s authority under any other provision of
 20 law, including the authority to issue advisory opinions
 21 (under Part 1 of Volume 16 of the Code of Federal Regu-
 22 lations), policy statements, or guidance regarding this Act.

23 **SEC. 7. ANNUAL FTC REPORT.**

24 For the 12-month period that begins upon the effec-
 25 tive date under section 11(a) and for each 12-month pe-

1 riod thereafter, the Commission shall submit a report to
2 the Congress that—

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

9 (2) describes the administrative structure and
10 personnel and other resources committed by the
11 Commission for enforcement of this Act during such
12 period.

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

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

17 (a) IN GENERAL.—Not later than the expiration of
18 the 6-month period that begins on the date of the enact-
19 ment of this Act, the Commission shall submit a report
20 to the Congress regarding the use of tracking cookies in
21 the delivery or display of advertising to the owners and
22 users of computers. The report shall examine and describe
23 the methods by which such tracking cookies and the
24 websites that place them on computers function separately
25 and together, and the extent to which they are covered

1 or affected by this Act. The report may include such rec-
2 ommendations as the Commission considers necessary and
3 appropriate, including treatment of tracking cookies under
4 this Act or other laws.

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

13 (1) delivering or displaying advertising to the
14 owner or user; or

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

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

19 **SEC. 9. REGULATIONS.**

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

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

3 **SEC. 10. DEFINITIONS.**

4 For purposes of this Act:

5 (1) CABLE OPERATOR.—The term “cable oper-
6 ator” has the meaning given such term in section
7 602 of the Communications Act of 1934 (47 U.S.C.
8 522).

9 (2) COLLECT.—The term “collect”, when used
10 with respect to information and for purposes only of
11 section 3, does not include obtaining of the informa-
12 tion by a party who is intended by the owner or au-
13 thorized user of a protected computer to receive the
14 information pursuant to the owner or authorized
15 user—

16 (A) transferring the information to such
17 intended recipient using the protected com-
18 puter; or

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

22 (3) COMPUTER; PROTECTED COMPUTER.—The
23 terms “computer” and “protected computer” have
24 the meanings given such terms in section 1030(e) of
25 title 18, United States Code.

1 (4) COMPUTER SOFTWARE.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), the term “computer soft-
4 ware” means a set of statements or instructions
5 that can be installed and executed on a com-
6 puter for the purpose of bringing about a cer-
7 tain result.

8 (B) EXCEPTION FOR COOKIES.—Such term
9 does not include—

10 (i) a cookie or other text or data file
11 that is placed on the computer system of
12 a user by an Internet service provider,
13 interactive computer service, or Internet
14 website to return information to such pro-
15 vider, service, or website; or

16 (ii) computer software that is placed
17 on the computer system of a user by an
18 Internet service provider, interactive com-
19 puter service, or Internet website solely to
20 enable the user subsequently to use such
21 provider or service or to access such
22 website.

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

1 (6) DAMAGE.—The term “damage” has the
2 meaning given such term in section 1030(e) of title
3 18, United States Code.

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

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

17 (9) INFORMATION COLLECTION FUNCTIONS.—
18 The term “information collection functions” means,
19 with respect to an information collection program,
20 the functions of the program described in subsection
21 (b) of section 3.

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

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

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

14 (13) PERSONALLY IDENTIFIABLE INFORMA-
15 TION.—

16 (A) IN GENERAL.—The term “personally
17 identifiable information” means the following
18 information, to the extent only that such infor-
19 mation allows a living individual to be identified
20 from that information:

21 (i) First and last name of an indi-
22 vidual.

23 (ii) A home or other physical address
24 of an individual, including street name,
25 name of a city or town, and zip code.

1 (iii) An electronic mail address.

2 (iv) A telephone number.

3 (v) A social security number, tax iden-
4 tification number, passport number, driv-
5 er's license number, or any other govern-
6 ment-issued identification number.

7 (vi) A credit card number.

8 (vii) Any access code, password, or ac-
9 count number, other than an access code
10 or password transmitted by an owner or
11 authorized user of a protected computer to
12 the intended recipient to register for, or
13 log onto, a Web page or other Internet
14 service or a network connection or service
15 of a subscriber that is protected by an ac-
16 cess code or password.

17 (viii) Date of birth, birth certificate
18 number, or place of birth of an individual,
19 except in the case of a date of birth trans-
20 mitted or collected for the purpose of com-
21 pliance with the law.

22 (B) RULEMAKING.—The Commission may,
23 by regulation, add to the types of information
24 specified under paragraph (1) that shall be con-
25 sidered personally identifiable information for

1 purposes of this Act, except that such informa-
2 tion may not include any record of aggregate
3 data that does not identify particular persons,
4 particular computers, particular users of com-
5 puters, or particular email addresses or other
6 locations of computers with respect to the
7 Internet.

8 (14) SUITE OF FUNCTIONALLY RELATED SOFT-
9 WARE.—The term ‘suite of functionally related software’
10 means a group of computer software programs dis-
11 tributed to an end user by a single provider, which
12 programs are necessary to enable features or
13 functionalities of an integrated service offered by the
14 provider.

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

19 (16) TRANSMIT.—The term “transmit” means,
20 with respect to an information collection program,
21 transmission by any means.

22 (17) WEB PAGE.—The term “Web page” means
23 a location, with respect to the World Wide Web, that
24 has a single Uniform Resource Locator or another

1 single location with respect to the Internet, as the
2 Federal Trade Commission may prescribe.

3 **SEC. 11. APPLICABILITY AND SUNSET.**

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

8 (b) **APPLICABILITY.**—Section 3 shall not apply to an
9 information collection program installed on a protected
10 computer before the effective date under subsection (a) of
11 this section.

12 (c) **SUNSET.**—This Act shall not apply after Decem-
13 ber 31, 2010.

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