

108TH CONGRESS  
1ST SESSION

# S. 1234

To reauthorize the Federal Trade Commission, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 11, 2003

Mr. MCCAIN (for himself and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To reauthorize the Federal Trade Commission, 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 “Federal Trade Com-  
5 mission Reauthorization Act of 2003”.

6 **TITLE I—REAUTHORIZATION**

7 **SEC. 101. REAUTHORIZATION.**

8 The text of section 25 of the Federal Trade Commis-  
9 sion Act (15 U.S.C. 57c) is amended to read as follows:

1 “There are authorized to be appropriated to carry out  
2 the functions, powers, and duties of the Commission not  
3 to exceed \$194,742,000 for fiscal year 2004,  
4 \$224,695,000 for fiscal year 2005, and \$235,457,000 for  
5 fiscal year 2006.”.

6 **SEC. 102. AUTHORITY TO ACCEPT REIMBURSEMENTS,**  
7 **GIFTS, AND VOLUNTARY AND UNCOMPEN-**  
8 **SATED SERVICES.**

9 The Federal Trade Commission Act (15 U.S.C. 41  
10 et seq.) is amended—

11 (1) by redesignating section 26 as section 28;  
12 and

13 (2) by inserting after section 25 the following:  
14 **“SEC. 26. REIMBURSEMENT OF EXPENSES.**

15 “The Commission may accept payment or reimburse-  
16 ment, in cash or in kind, from a domestic or foreign law  
17 enforcement authority, or payment or reimbursement  
18 made on behalf of such authority, for expenses incurred  
19 by the Commission, its members, or employees in carrying  
20 out any activity pursuant to a statute administered by the  
21 Commission without regard to any other provision of law.  
22 Any such payments or reimbursements shall be considered  
23 a reimbursement to the appropriated funds of the Com-  
24 mission.

1 **“SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED**  
2 **SERVICES.**

3 “(a) IN GENERAL.—In furtherance of its functions  
4 the Commission may accept, hold, administer, and use un-  
5 conditional gifts, donations, and bequests of real, personal,  
6 and other property and, notwithstanding section 1342 of  
7 title 31, United States Code, accept voluntary and uncom-  
8 pensated services.

9 “(b) LIMITATIONS.—

10 “(1) CONFLICTS OF INTEREST.—Notwith-  
11 standing subsection (a), the Commission may not ac-  
12 cept, hold, administer, or use a gift, donation, or be-  
13 quest if the acceptance, holding, administration, or  
14 use would create a conflict of interest or the appear-  
15 ance of a conflict of interest.

16 “(2) VOLUNTARY SERVICES.—A person who  
17 provides voluntary and uncompensated service under  
18 subsection (a) shall not be considered a Federal em-  
19 ployee for any purpose other than for purposes of  
20 chapter 81 of title 5, United States Code, (relating  
21 to compensation for injury) and section 2671  
22 through 2680 of title 28, United States Code, (relat-  
23 ing to tort claims).”.

1           **TITLE II—INTERNATIONAL**  
2           **CONSUMER PROTECTION**

3 **SEC. 201. FINDINGS.**

4           The Congress finds the following:

5                 (1) The Federal Trade Commission protects  
6           consumers from fraud and deception. Cross-border  
7           fraud and deception are growing international prob-  
8           lems that affect American consumers and busi-  
9           nesses.

10                (2) The development of the Internet and im-  
11           provements in telecommunications technologies have  
12           brought significant benefits to consumers. At the  
13           same time, they have also provided unprecedented  
14           opportunities for those engaged in fraud and decep-  
15           tion to establish operations in one country and vic-  
16           timize a large number of consumers in other coun-  
17           tries.

18                (3) An increasing number of consumer com-  
19           plaints collected in the Consumer Sentinel database  
20           maintained by the Commission, and an increasing  
21           number of cases brought by the Commission, involve  
22           foreign consumers, foreign businesses or individuals,  
23           or assets or evidence located outside the United  
24           States.

1           (4) The Commission has legal authority to rem-  
2       edy law violations involving domestic and foreign  
3       wrongdoers, pursuant to the Federal Trade Commis-  
4       sion Act. The Commission's ability to obtain effec-  
5       tive relief using this authority, however, may face  
6       practical impediments when wrongdoers, victims,  
7       other witnesses, documents, money and third parties  
8       involved in the transaction are widely dispersed in  
9       many different jurisdictions. Such circumstances  
10      make it difficult for the Commission to gather all  
11      the information necessary to detect injurious prac-  
12      tices, to recover offshore assets for consumer re-  
13      dress, and to reach conduct occurring outside the  
14      United States that affects United States consumers.

15           (5) Improving the ability of the Commission  
16      and its foreign counterparts to share information  
17      about cross-border fraud and deception, to conduct  
18      joint and parallel investigations, and to assist each  
19      other is critical to achieve more timely and effective  
20      enforcement in cross-border cases.

21           (6) Consequently, Congress should enact legis-  
22      lation to provide the Commission with more tools to  
23      protect consumers across borders.

1 **SEC. 202. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.**

2 Section 4 of the Federal Trade Commission Act (15  
3 U.S.C. 44) is amended by adding at the end the following:

4 “‘Foreign law enforcement agency’ means—

5 “(1) any agency or judicial authority of a for-  
6 eign government, including a foreign state, a polit-  
7 ical subdivision of a foreign state, or a multinational  
8 organization constituted by and comprised of foreign  
9 states, that is vested with law enforcement or inves-  
10 tigative authority in civil, criminal, or administrative  
11 matters;

12 “(2) any multinational organization, to the ex-  
13 tent that it is acting on behalf of an entity described  
14 in paragraph (1); or

15 “(3) any organization that is vested with au-  
16 thority, as a principal mission, to enforce laws  
17 against fraudulent, deceptive, misleading, or unfair  
18 commercial practices affecting consumers, in accord-  
19 ance with criteria laid down by law, by a foreign  
20 state or a political subdivision of a foreign state.”.

21 **SEC. 203. SHARING INFORMATION WITH FOREIGN LAW EN-  
22 FORCEMENT AGENCIES.**

23 (a) IN GENERAL.—Section 21(b)(6) of the Federal  
24 Trade Commission Act (15 U.S.C. 57b–2(b)(6)) is amend-  
25 ed by adding at the end “The custodian may make such  
26 material available to any foreign law enforcement agency

1 upon the prior certification of any officer of any such for-  
2 eign law enforcement agency that such material will be  
3 maintained in confidence and will be used only for official  
4 law enforcement purposes, provided that the foreign law  
5 enforcement agency has set forth a legal basis for its au-  
6 thority to maintain the material in confidence. Nothing  
7 in the preceding sentence authorizes disclosure of material  
8 obtained in connection with the administration of Federal  
9 antitrust laws or foreign antitrust laws (within the mean-  
10 ing of section 12 of the International Antitrust Enforce-  
11 ment Assistance Act of 1994 (15 U.S.C. 6211)) to any  
12 officer or employee of a foreign law enforcement agency.”.

13 (b) PUBLICATION OF INFORMATION; REPORTS.—Sec-  
14 tion 6(f) of the Federal Trade Commission Act (15 U.S.C.  
15 46(f)) is amended—

16 (1) by striking “agencies or to any officer or  
17 employee of any State law enforcement agency” and  
18 inserting “agencies, to any officer or employee of  
19 any State law enforcement agency, or to any officer  
20 or employee of any foreign law enforcement agency”;

21 (2) by striking “Federal or State law enforce-  
22 ment agency” and inserting “Federal, State, or for-  
23 eign law enforcement agency”; and

24 (3) by adding at the end “Such information  
25 shall be disclosed to an officer or employee of a for-

1        foreign law enforcement agency only if the foreign law  
2        enforcement agency has set forth a legal basis for its  
3        authority to maintain the information in confidence.  
4        Nothing in the preceding sentence authorizes the  
5        disclosure of material obtained in connection with  
6        the administration of Federal antitrust laws or for-  
7        eign antitrust laws (within the meaning of section  
8        12 of the International Antitrust Enforcement As-  
9        sistance Act of 1994 (15 U.S.C. 6211)) to any offi-  
10       cer or employee of a foreign law enforcement agen-  
11       cy.”.

12   **SEC. 204. OBTAINING INFORMATION FOR FOREIGN LAW EN-**  
13                           **FORCEMENT AGENCIES.**

14        Section 6 of the Federal Trade Commission Act (15  
15   U.S.C. 46) is amended by adding at the end the following:

16        “(j)(1) Upon request from a foreign law enforcement  
17   agency, to provide assistance in accordance with this sub-  
18   section if the requesting agency states that it is inves-  
19   tigating, or engaging in enforcement proceedings against,  
20   possible violations of laws prohibiting fraudulent, decep-  
21   tive, misleading, or unfair commercial conduct, or other  
22   conduct that may be similar to conduct prohibited by any  
23   provision of the laws administered by the Commission,  
24   other than Federal antitrust laws (within the meaning of  
25   section 12 of the International Antitrust Enforcement As-

1 sistance Act of 1994 (15 U.S.C. 6211)), the Commission  
2 may, in its discretion—

3 “(A) conduct such investigation as the Commis-  
4 sion deems necessary to collect information and evi-  
5 dence pertinent to the request for assistance, using  
6 all investigative powers authorized by this Act; and

7 “(B) seek and accept appointment by a United  
8 States district court of Commission attorneys to pro-  
9 vide assistance to foreign and international tribunals  
10 and to litigants before such tribunals on behalf of a  
11 foreign law enforcement agency pursuant to section  
12 1782 of title 28, United States Code.

13 “(2) The Commission may provide assistance under  
14 paragraph (1) without regard to whether the conduct iden-  
15 tified in the request would also constitute a violation of  
16 the laws of the United States.

17 “(3) In deciding whether to provide such assistance,  
18 the Commission shall consider—

19 “(A) whether the requesting agency has agreed  
20 to provide or will provide reciprocal assistance to the  
21 Commission; and

22 “(B) whether compliance with the request  
23 would prejudice the public interest of the United  
24 States.

1       “(4) If a foreign law enforcement agency has set  
2 forth a legal basis for requiring execution of an inter-  
3 national agreement as a condition for reciprocal assist-  
4 ance, or as a condition for disclosure of materials or infor-  
5 mation to the Commission, the Commission, after con-  
6 sultation with the Secretary of State, may negotiate and  
7 conclude an international agreement, in the name of either  
8 the United States or the Commission and with the final  
9 approval of the agreement by the Secretary of State, for  
10 the purpose of obtaining such assistance or disclosure. The  
11 Commission may undertake in such an international  
12 agreement—

13               “(A) to provide assistance using the powers set  
14 forth in this subsection;

15               “(B) to disclose materials and information in  
16 accordance with subsection (f) of this section and  
17 section 21(b)(6) of this Act; and

18               “(C) to engage in further cooperation, and pro-  
19 tect materials and information received from disclo-  
20 sure, as authorized by this Act.

21       “(5) The authority in this subsection is in addition  
22 to, and not in lieu of, any other authority vested in the  
23 Commission or any other officer of the United States.”.

1 **SEC. 205. INFORMATION SUPPLIED BY AND ABOUT FOR-**  
2 **EIGN SOURCES.**

3 Section 21(f) of the Federal Trade Commission Act  
4 (15 U.S.C. 57b–2(f)) is amended—

5 (1) by inserting “(1)” before “Any”; and add-  
6 ing at the end the following:

7 “(2)(A) Except as provided in subparagraph (C) of  
8 this paragraph, the Commission shall not be compelled to  
9 disclose—

10 “(i) material obtained from a foreign law en-  
11 forcement agency or other foreign government agen-  
12 cy, if the foreign law enforcement agency or other  
13 foreign government agency has requested confiden-  
14 tial treatment as a condition of disclosing the mate-  
15 rial;

16 “(ii) material reflecting consumer complaints  
17 obtained from any other foreign source, if that for-  
18 eign source supplying the material has requested  
19 confidential treatment as a condition of disclosing  
20 the material; or

21 “(iii) material reflecting a consumer complaint  
22 submitted to a Commission reporting mechanism  
23 sponsored in part by foreign law enforcement agen-  
24 cies or other foreign government agencies.

1 “(B) For purposes of section 552 of title 5, this para-  
2 graph shall be considered a statute described in subsection  
3 (b)(3)(B) of such section 552.

4 “(C) Nothing in this paragraph shall authorize the  
5 Commission to withhold information from the Congress or  
6 prevent the Commission from complying with an order of  
7 a court of the United States in an action commenced by  
8 the United States or the Commission.”.

9 **SEC. 206. CONFIDENTIALITY AND DELAYED NOTICE OF**  
10 **PROCESS.**

11 (a) The Federal Trade Commission Act (15  
12 U.S.C. 41 et seq.) is amended by inserting after sec-  
13 tion 21 (15 U.S.C. 57b–2) the following:

14 **“SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF**  
15 **COMPULSORY PROCESS FOR CERTAIN THIRD**  
16 **PARTIES.**

17 “(a) CONFIDENTIALITY OF COMPULSORY PROCESS  
18 ISSUED BY THE COMMISSION.—

19 “(1) This subsection shall apply only in connec-  
20 tion with compulsory process issued by the Commis-  
21 sion where the recipient of such process is not a sub-  
22 ject of the investigation or proceeding at the time  
23 such process is issued.

24 “(2) Notwithstanding any law or regulation of  
25 the United States, any constitution, law or regula-

1       tion of any State or political subdivision of any State  
2       or any Territory or the District of Columbia, or any  
3       contract or other legally enforceable agreement, the  
4       Commission may seek an order requiring the recipi-  
5       ent of compulsory process described in paragraph  
6       (1) to keep such process confidential, upon an ex  
7       parte showing to an appropriate United States dis-  
8       trict court that there is a reason to believe that dis-  
9       closure may—

10               “(A) result in the transfer of assets or  
11               records outside the territorial limits of the  
12               United States;

13               “(B) impede the ability of the Commission  
14               to identify or trace funds;

15               “(C) endanger the life or physical safety of  
16               an individual;

17               “(D) result in flight from prosecution;

18               “(E) result in destruction of or tampering  
19               with evidence;

20               “(F) result in intimidation of potential wit-  
21               nesses;

22               “(G) result in the dissipation or conceal-  
23               ment of assets; or

24               “(H) otherwise seriously jeopardize an in-  
25               vestigation or unduly delay a trial.

1           “(3) Upon a showing described in paragraph  
2           (2), the presiding judge or magistrate judge shall  
3           enter an ex parte order prohibiting the recipient of  
4           process from disclosing that information has been  
5           submitted or that a request for information has been  
6           made, for such period as the court deems appro-  
7           priate.

8           “(b) MATERIALS SUBJECT TO GOVERNMENT NOTIFI-  
9           CATION UNDER THE RIGHT TO FINANCIAL PRIVACY  
10          ACT.—

11           “(1) When section 1105 or 1107 of the Right  
12          to Financial Privacy Act of 1978 (12 U.S.C. 3405  
13          or 3407) would otherwise require notice, notwith-  
14          standing such requirements, the Commission may  
15          obtain from a financial institution access to or copies  
16          of financial records of a customer, as these terms  
17          are defined in section 1101 of the Right to Financial  
18          Privacy Act of 1978 (12 U.S.C. 3401), through com-  
19          pulsory process described in subsection (a)(1) or  
20          through a judicial subpoena, without prior notice to  
21          the customer, upon an ex parte showing to an appro-  
22          priate United States district court that there is rea-  
23          son to believe that the required notice may cause an  
24          adverse result described in subsection (a)(2).

1           “(2) Upon such showing, the presiding judge or  
2 magistrate judge shall enter an ex parte order grant-  
3 ing a delay of notice for a period not to exceed 90  
4 days and an order prohibiting the financial institu-  
5 tion from disclosing that records have been sub-  
6 mitted or that a request for records has been made.

7           “(3) The court may grant extensions of the pe-  
8 riod of delay of notice provided in paragraph (2) of  
9 up to 90 days, upon a showing that the require-  
10 ments for delayed notice under subsection (a)(2)  
11 continue to apply.

12           “(4) Upon expiration of the periods of delay of  
13 notice ordered under paragraphs (2) and (3), the  
14 Commission shall serve upon, or deliver by registered  
15 or first-class mail, or as otherwise authorized by the  
16 court to, the customer a copy of the process together  
17 with notice that states with reasonable specificity the  
18 nature of the law enforcement inquiry, informs the  
19 customer or subscriber when the process was served,  
20 and states that notification of the process was de-  
21 layed under this subsection.

22           “(c) MATERIALS SUBJECT TO GOVERNMENT NOTIFI-  
23 CATION UNDER THE ELECTRONIC COMMUNICATIONS PRI-  
24 VACY ACT.—

1           “(1) When section 2703(b)(1)(B) of title 18  
2 would otherwise require notice, notwithstanding such  
3 requirements, the Commission may obtain, through  
4 compulsory process described in subsection (a)(1) or  
5 through judicial subpoena,

6           “(A) from a provider of remote computing  
7 services, access to or copies of the contents of  
8 a wire or electronic communication described in  
9 section 2703(b)(1) of title 18, and as those  
10 terms are defined in section 2510 of title 18, or

11           “(B) from a provider of electronic commu-  
12 nications services, access to or copies of the  
13 contents of a wire or electronic communication  
14 that has been in electronic storage in an elec-  
15 tronic communications system for more than  
16 180 days, as those terms are defined in section  
17 2510 of title 18,

18 without prior notice to the customer or subscriber,  
19 upon an ex parte showing to an appropriate United  
20 States district court by a Commission official that  
21 there is reason to believe that notification of the ex-  
22 istence of the process may cause an adverse result  
23 described in subsection (a)(2). Upon such a showing,  
24 the presiding judge or magistrate judge shall issue  
25 an exparte order granting a delay of notice for a pe-

1       riod not to exceed 90 days. A court may grant ex-  
2       tensions of the period of delay of notice of up to 90  
3       days, upon application by the Commission and a  
4       showing that the requirements for delayed notice  
5       under subsection (b)(2) continue to apply.

6               “(2) The Commission may apply to a court for  
7       an order prohibiting a provider of electronic commu-  
8       nications service or remote computing service to  
9       whom process has been issued under this subsection,  
10      for such period as the court deems appropriate, from  
11      disclosing that information has been submitted or  
12      that a request for information has been made. The  
13      court shall enter such an order if it has reason to  
14      believe that such disclosure may cause an adverse  
15      result described in subsection (b)(2).

16              “(3) Upon expiration of the periods of delay of  
17      notice ordered under subparagraph (1), the Commis-  
18      sion shall serve upon, or deliver by registered or  
19      first-class mail, or as otherwise authorized by the  
20      court to, the customer or subscriber a copy of the  
21      process together with notice that states with reason-  
22      able specificity the nature of the law enforcement in-  
23      quiry, informs the customer or subscriber when the  
24      process was served, and states that notification of  
25      the process was delayed under this subsection.

1           “(4) Nothing in the Electronic Communications  
2           Privacy Act shall prohibit a provider of electronic  
3           communications services or remote computing serv-  
4           ices from disclosing complaints received by it from  
5           a customer or subscriber or information reflecting  
6           such complaints to the Commission.

7           “(d) LIABILITY LIMITATION.—The recipient of com-  
8           pulsory process under subsections (a), (b), or (c) shall not  
9           be liable to any person under any law or regulation of the  
10          United States, any constitution, law, or regulation of any  
11          State or political subdivision of any State or any Territory  
12          or the District of Columbia, or under any contract or other  
13          legally enforceable agreement, for failure to provide notice  
14          that such process has been issued or that the recipient  
15          has provided information in response to such process. The  
16          preceding sentence does not provide any exemption from  
17          liability for the underlying conduct reported.

18          “(e) IN-CAMERA PROCEEDINGS.—Upon application  
19          by the Commission, all judicial proceedings pursuant to  
20          this section shall be held in camera and the records thereof  
21          sealed until expiration of the period of delay or such other  
22          date as the presiding judge or magistrate judge may per-  
23          mit.

24          “(f) PROCEDURE INAPPLICABLE TO CERTAIN PRO-  
25          CEEDINGS.—This section shall not apply to compulsory

1 process issued in an investigation or proceeding related to  
2 the administration of Federal antitrust laws or foreign  
3 antitrust laws (within the meaning of section 12 of the  
4 International Antitrust Enforcement Assistance Act of  
5 1994 (15 U.S.C. 6211)).”.

6 (b) Section 16(a)(2) of the Federal Trade Commis-  
7 sion Act (15 U.S.C. 56(a)(2)) is amended—

8 (1) by striking “or” after the semicolon in sub-  
9 paragraph (C);

10 (2) by striking “Act;” in subparagraph (D) and  
11 inserting “Act; or”; and

12 (3) by inserting after subparagraph (D) the fol-  
13 lowing:

14 “(E) under section 21a of this Act;”.

15 **SEC. 207. PROTECTION FOR VOLUNTARY PROVISION OF IN-**  
16 **FORMATION.**

17 The Federal Trade Commission Act (15 U.S.C. 41  
18 et seq.) is amended by inserting after section 21a, as  
19 added by section 206 of this title, the following:

20 **“SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF**  
21 **INFORMATION.**

22 “(a) IN GENERAL.—An entity described in subsection  
23 (d)(1) that voluntarily provides material to the Commis-  
24 sion that it reasonably believes is relevant to—

1           “(1) a possible unfair or deceptive act or prac-  
2           tice, as defined in section 5(a) of this Act, or

3           “(2) assets subject to recovery by the Commis-  
4           sion, including assets located in foreign jurisdictions,  
5 shall not be liable to any person under any law or regula-  
6 tion of the United States, or any constitution, law, or reg-  
7 ulation of any State or political subdivision of any State  
8 or any Territory or the District of Columbia, for such dis-  
9 closure or for any failure to provide notice of such dislo-  
10 sure. The preceding sentence does not provide any exemp-  
11 tion from liability for the underlying conduct reported.

12           “(b) LIABILITY LIMITATION.—An entity described in  
13 subsection (d)(2) that makes a voluntary disclosure to the  
14 Commission regarding the subjects described in subsection  
15 (a)(1) and (2) shall be exempt from liability in accordance  
16 with the provisions of section 5318(g)(3) of title 31,  
17 United States Code.

18           “(c) FOIA EXEMPTION.—Material submitted pursu-  
19 ant to this section with a request for confidential treat-  
20 ment shall be exempt from disclosure under section 552  
21 of title 5, United States Code.

22           “(d) ENTITIES TO WHICH SECTION APPLIES.—This  
23 section applies to the following entities, whether foreign  
24 or domestic:

1           “(1) A courier service, a commercial mail re-  
2           ceiving agency, an industry membership organiza-  
3           tion, a payment system provider, a consumer report-  
4           ing agency, a domain name registrar and registry, a  
5           provider of remote computing services or electronic  
6           communication services, to the limited extent such a  
7           provider is disclosing consumer complaints received  
8           by it from a customer or subscriber, or information  
9           reflecting such complaints; and

10           “(2) a bank or thrift institution, a commercial  
11           bank or trust company, an investment company, a  
12           credit card issuer, an operator of a credit card sys-  
13           tem, and an issuer, redeemer, or cashier of travelers’  
14           checks, checks, money orders, or similar instru-  
15           ments.”.

16 **SEC. 208. INFORMATION SHARING WITH FINANCIAL REGU-**  
17 **LATORS.**

18           Section 1112(e) of the Right to Financial Privacy Act  
19 (12 U.S.C. 3412(e)) is amended by inserting “the Federal  
20 Trade Commission,” after “the Securities and Exchange  
21 Commission,”.

22 **SEC. 209. REPRESENTATION IN FOREIGN LITIGATION.**

23           Section 16 of the Federal Trade Commission Act (15  
24 U.S.C. 56) is amended by adding at the end the following:

1       “(c)(1) The Commission may designate Commission  
 2 attorneys to assist the Department of Justice in connec-  
 3 tion with litigation in foreign courts in which the Commis-  
 4 sion has an interest, pursuant to the terms of a memo-  
 5 randum of understanding to be negotiated by the Commis-  
 6 sion and the Department of Justice.

7       “(2) The Commission is authorized to expend appro-  
 8 priated funds for the retention of foreign counsel for con-  
 9 sultation and for litigation in foreign courts, and for ex-  
 10 penses related to consultation and to litigation in foreign  
 11 courts in which the Commission has an interest.”.

12 **SEC. 210. AVAILABILITY OF REMEDIES.**

13       Section 5 of the Federal Trade Commission Act (15  
 14 U.S.C. 45) is amended by adding at the end the following:

15       “(o) UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN-  
 16 VOLVING FOREIGN COMMERCE.—

17               “(1) IN GENERAL.—For purposes of subsection  
 18 (a), the term ‘unfair or deceptive acts or practices’  
 19 includes such acts or practices involving foreign  
 20 commerce that—

21                       “(A) cause or are likely to cause reason-  
 22 ably foreseeable injury within the United  
 23 States; or

24                       “(B) involve material conduct occurring  
 25 within the United States.

1           “(2) APPLICATION OF REMEDIES TO SUCH ACTS  
2           OR PRACTICES.—All remedies available to the Com-  
3           mission with respect to unfair and deceptive acts or  
4           practices shall be available for acts and practices de-  
5           scribed in paragraph (1), including restitution to do-  
6           mestic or foreign victims.”.

7   **SEC. 211. CRIMINAL REFERRALS.**

8           Section 6 of the Federal Trade Commission Act (15  
9   U.S.C. 46), as amended by section 204 of this title, is  
10   amended by adding at the end the following:

11          “(k) REFERRAL OF EVIDENCE FOR CRIMINAL PRO-  
12   CEEDINGS.—Whenever the Commission obtains evidence  
13   that any person, partnership or corporation, either domes-  
14   tic or foreign, may have engaged in conduct that could  
15   give rise to criminal proceedings, to transmit such evi-  
16   dence to the Attorney General who may, in his discretion,  
17   institute criminal proceedings under appropriate statutes.  
18   Provided that nothing in this subsection affects any other  
19   authority of the Commission to disclose information.”.

20   **SEC. 212. STAFF EXCHANGES.**

21          The Federal Trade Commission Act (15 U.S.C. 41  
22   et seq.) is amended by inserting after section 25 (15  
23   U.S.C. 57c) the following:

24   **“SEC. 25A. STAFF EXCHANGES.**

25          “(a) IN GENERAL.—The Congress consents to—

1           “(1) the retention or employment of officers or  
2 employees of foreign government agencies on a tem-  
3 porary basis by the Commission under section 3109  
4 of title 5, United States Code, section 202 of title  
5 18, United States Code, or section 2 of this Act (15  
6 U.S.C. 42); and

7           “(2) the retention or employment of officers or  
8 employees of the Commission on a temporary basis  
9 by such foreign government agencies.

10          “(b) FORM OF ARRANGEMENTS.—Staff arrange-  
11 ments under subsection (a) need not be reciprocal. The  
12 Commission may accept payment or reimbursement, in  
13 cash or in kind, from a foreign government agency to  
14 which this section is applicable, or payment or reimburse-  
15 ment made on behalf of such agency, for expenses incurred  
16 by the Commission, its members, and employees in car-  
17 rying out such arrangements.”.

18 **SEC. 213. EXPENDITURES FOR COOPERATIVE ARRANGE-**  
19 **MENTS.**

20          (a) IN GENERAL.—Section 6 of the Federal Trade  
21 Commission Act (15 U.S.C. 46) as amended by section  
22 211 of this title, is further amended by adding at the end  
23 the following:

24          “(p) To expend appropriated funds for—

1           “(1) operating expenses and other costs of bi-  
2 lateral and multilateral cooperative law enforcement  
3 groups conducting activities of interest to the Com-  
4 mission and in which the Commission participates;  
5 and

6           “(2) expenses for consultations and meetings  
7 hosted by the Commission with foreign government  
8 agency officials, members of their delegations, ap-  
9 propriate representatives and staff to exchange views  
10 concerning developments relating to the Commis-  
11 sion’s mission, development and implementation of  
12 cooperation agreements, and provision of technical  
13 assistance for the development of foreign consumer  
14 protection or competition regimes, such expenses to  
15 include necessary administrative and logistic ex-  
16 penses and the expenses of Commission staff and  
17 foreign invitees in attendance at such consultations  
18 and meetings including—

19           “(A) such incidental expenses as meals  
20 taken in the course of such attendance;

21           “(B) any travel and transportation to or  
22 from such meetings; and

23           “(3) any other related lodging or subsistence.”.

24           (b) AUTHORIZATION OF APPROPRIATIONS.—The  
25 Federal Trade Commission is authorized to expend appro-

1 priated funds not to exceed \$100,000 per fiscal year for  
2 purposes of section 6(p) of the Federal Trade Commission  
3 Act (15 U.S.C. 46(p)), including operating expenses and  
4 other costs of the following bilateral and multilateral coop-  
5 erative law enforcement groups:

6           (1) The International Consumer Protection and  
7           Enforcement Network.

8           (2) The International Competition Network.

9           (3) The Mexico-U.S.-Canada Health Fraud  
10          Task Force.

11          (4) Project Emptor.

12          (5) The Toronto Strategic Partnership and  
13          other regional partnerships with a nexus in a Cana-  
14          dian province.

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