CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 14, 2010

S. 3386
Restore Online Shoppers' Confidence Act

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 9, 2010

IMPACT ON THE FEDERAL BUDGET

S. 3386 would make it unlawful for any third-party seller to charge a consumer's financial account after the sale of any good or service over the Internet unless certain requirements are met. The bill would define third-party sellers as vendors that offer a good or service to a consumer after the consumer has completed a transaction with a different Internet merchant.

Additionally, S. 3386 would make it unlawful for a person who has directly obtained a consumer's billing information through an online transaction to disclose it to any third-party seller. Finally, the bill would require the Federal Trade Commission (FTC) to develop regulations necessary to enforce the new requirements and make any person who violates those regulations subject to penalty.

Based on information provided by the FTC, CBO estimates that developing and enforcing the new regulations would have a minor cost. Therefore, CBO estimates that implementing the provisions of S. 3386 would not significantly increase spending subject to appropriation.

Enacting S. 3386 could increase revenues from the collection of civil penalties; therefore, pay-as-you-go procedures would apply. However, CBO estimates that revenue collections from those penalties would be negligible in each year.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 3386 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

S. 3386 would impose private-sector mandates, as defined in UMRA, on sellers that use "negative-option" features in selling goods or services on the Internet and on Internet sellers that engage in the sale of consumer financial information for the purpose of marketing or sales.

Internet sellers frequently use a negative-option feature wherein consumers who do not wish to buy a good or service being offered at the time of another purchase must opt out of the offer. The bill would require that new and more detailed information be provided to consumers when a negative-option plan is in use, including the means by which consumers can avoid charges after any trial period.

Internet sellers sometimes increase sales and revenues by partnering with one another and sharing the financial information of consumers without the consumers' knowledge or consent. As a result of those partnerships, consumers may be enrolled in programs and billed, often on a recurring basis, without their knowledge. The majority of those consumers cancel once they discover they have been enrolled. The sellers that obtain consumer financial information directly would be prohibited from disclosing the financial information of their customers to any third party. Third-party Internet sellers would be prohibited from charging or attempting to charge consumers for their goods or services unless they have obtained the financial information directly from the consumers and received their express informed consent.

The cost of the mandate would be the forgone revenue from the sale of products and services which have been sold in this manner. Because of the number of consumers being billed for those types of goods and services and the average monthly cost per consumer, CBO estimates that the aggregate cost of the mandates would be above the annual threshold for private-sector mandates ($141 million in 2010, adjusted annually for inflation).

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