

[COMMITTEE PRINT]

FEBRUARY 24, 2004

108TH CONGRESS
2D SESSION

H. R. _____

To prohibit the misappropriation of databases while ensuring consumer access to factual information.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit the misappropriation of databases while ensuring consumer access to factual information.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consumer Access to Information Act of 2004”.

SEC. 2. MISAPPROPRIATION OF A DATABASE.

(a) MISAPPROPRIATION PROHIBITED.—The misappropriation of a database is an unfair method of competition and an unfair or deceptive act or practice in commerce under section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

(b) DEFINITION.—For purposes of subsection (a), the term “misappropriation of a database” means that—

(1) a person (referred to in this section as the “first person”) generates or collects the information in the database at some cost or expense;

(2) the value of the information is highly time-sensitive;

(3) another person’s (referred to in this section as the “other person”) use of the information constitutes free-riding on the first person’s costly efforts to generate or collect it;

(4) the other person’s use of the information is in direct competition with a product or service offered by the first person; and

(5) the ability of other parties to free-ride on the efforts of the first person would so reduce the incentive to produce the product or service that its existence or quality would be substantially threatened.

SEC. 3. LIMITATION ON LIABILITY OF CERTAIN ENTITIES.

(a) **LIMITATION ON LIABILITY.**—No provider of an interactive computer service shall be liable under section 2 for making available information that is provided by another information content provider.

(b) **DEFINITIONS.**—In this section, the terms “interactive computer service” and “information content provider” have the meaning given to those terms in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(c) **CONSTRUCTION.**—For purposes of section 230 of the Communications Act of 1934 (47 U.S.C. 230) and any other provision of law, the provisions of this Act shall not be construed to be a law pertaining to intellectual property.

SEC. 4. REMEDIES.

(a) **TREATMENT OF VIOLATIONS AS RULE VIOLATIONS.**—A misappropriation of a database under section 2 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) **FTC AUTHORITY.**—The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the

Federal Trade Commission Act (15 U.S.C. 41 et seq.)

were incorporated into and made a part of this Act.

SEC. 5. EXCLUSIONS.

Nothing in this Act shall—

(1) affect the operation of the Securities Act of 1933 (15 U.S.C 78a et seq.), the Securities Exchange Act of 1934 (15 U.S.C 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C 77aaa et seq.), the Investment Company Act of 1940 (15 USC80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C 80b et seq.), the Securities Investor Protection Act of 1970 (15 U.S.C 78aaa et seq.), or the rules and regulations thereunder;

(2) affect the authority of the Securities and Exchange Commission; or

(3) apply to information with respect to quotations for, or indications, orders, or transactions in, securities.