



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 8, 2003

H.R. 3143
International Consumer Protection Act of 2003

*As ordered reported by the House Committee on Energy and Commerce
on October 1, 2003*

H.R. 3143 would expand the authority of the Federal Trade Commission (FTC) to work with foreign law enforcement agencies to enforce laws prohibiting fraudulent and deceptive commercial practices. The bill would allow temporary staff exchanges between foreign government agencies and the FTC and would authorize the agency to accept payment in-kind or reimbursement for costs associated with such exchanges. It also would authorize the appropriation of up to \$100,000 a year for the FTC to support activities of certain international law enforcement groups.

Assuming appropriation of the amounts specified in H.R. 3143, CBO estimates that implementing the bill would cost less than \$500,000 over the 2004-2008 period. Enacting the bill would not affect direct spending or revenues.

H.R. 3143 would preempt state and local laws that require notice to third parties when certain information relating to them is disclosed to the FTC. Such preemptions are mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of the mandates would not exceed the threshold established in UMRA (\$59 million in 2003, adjusted for inflation).

H.R. 3143 would authorize the FTC to request that a judge order the recipient of a summons, subpoena, or other compulsory process to delay giving notice to anyone that they have been required to appear as a witness before, or to produce documents in, an FTC proceeding. The order could be issued, notwithstanding any state or local laws or regulations, if there is reason to believe that notification would cause certain identified adverse results. Further, the recipient would not be liable under any state or local laws or regulations for disclosing information or for failure to provide notice. The title also would protect certain entities that voluntarily provide specified material to the FTC from liability under any state or local law or regulation that precludes disclosure of information or requires notification to the interested third party.

To the extent that state and local governments have laws that contradict these provisions in the bill, the legislation would preempt those laws and thereby impose mandates under UMRA. CBO estimates that the cost of these mandates would be minimal and would not exceed the threshold established in UMRA (\$59 million in 2003, adjusted for inflation).

H.R. 3143 would exempt from liability those entities providing certain information on third parties to the FTC. This exemption would limit the ability of a third party to sue and, thus, impose a private-sector mandate under UMRA. CBO estimates that the cost to the private sector would be minimal and would fall below the annual threshold for private-sector mandates established in UMRA (\$117 million in 2003, adjusted annually for inflation).

Section 21B of the Federal Trade Commission Act, as amended by H.R. 3143, would protect from liability entities voluntarily providing information to the FTC about possible unfair or deceptive acts or practices of third parties. By exempting those entities from liability, H.R. 3143 would limit the ability of third parties to sue for disclosure or failure to provide notice of disclosure; such a limit constitutes a private-sector mandate under UMRA. The direct cost of the mandate would be the amount awarded in settlements and judgments (net of costs) to third parties under current law that would be precluded under H.R. 3143. Due to the exposure to liability under current law, entities do not voluntarily provide information on third parties to the FTC. CBO estimates that the costs to the private sector would be minimal, since few, if any, third-party lawsuits are filed.

On July 9, 2003, CBO transmitted a cost estimate for S. 1234, the Federal Trade Commission Reauthorization Act of 2003 as ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 19, 2003. H.R. 3143 contains similar provisions to those in title II of S. 1234. In addition, S. 1234 would authorize funding for all operations of the FTC, but H.R. 3143 would authorize funding only for support to certain international law enforcement groups. Both bills also would preempt state and local law in the same way and would impose the same private-sector mandate.

The CBO staff contacts for this estimate are Melissa E. Zimmerman (for federal costs), Sara Puro (for the impact on state and local governments), and Selena Caldera (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.