

## S 1234

International Consumer Protection Act of 2004

**Congress:** 108 (2003–2005, Ended)

**Chamber:** Senate

**Policy Area:** Government Operations and Politics

**Introduced:** Jun 11, 2003

**Current Status:** Held at the desk.

**Latest Action:** Held at the desk. (Sep 17, 2004)

**Official Text:** <https://www.congress.gov/bill/108th-congress/senate-bill/1234>

### Sponsor

**Name:** Sen. McCain, John [R-AZ]

**Party:** Republican • **State:** AZ • **Chamber:** Senate

### Cosponsors (2 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Smith, Gordon H. [R-OR]	R · OR		Jun 11, 2003
Sen. Hollings, Ernest F. [D-SC]	D · SC		Sep 25, 2003

### Committee Activity

Committee	Chamber	Activity	Date
Commerce, Science, and Transportation Committee	Senate	Reported By	Aug 26, 2003

### Subjects & Policy Tags

#### Policy Area:

Government Operations and Politics

### Related Bills

*No related bills are listed.*

International Consumer Protection Act of 2004 - (Sec. 2) Amends the Federal Trade Commission Act to include the definition of "foreign law enforcement agency."

(Sec. 3) Makes remedies currently available to the Federal Trade Commission (FTC) regarding unfair and deceptive acts applicable to acts involving foreign commerce that cause or are likely to cause reasonably foreseeable injury within, or that involve material conduct occurring within, the United States.

(Sec. 4) Authorizes the FTC to make certain privileged or confidential information available to foreign law enforcement agencies.

Authorizes the FTC to conduct an investigation and seek and accept appointment by a U.S. district court of FTC attorneys to assist foreign and international tribunals and litigants at the request of an agency acting to investigate or pursue the enforcement of civil laws, or when the Attorney General refers such a request to the FTC (without requiring that the conduct identified in the request also constitutes a violation of U.S. laws). Directs the FTC, in deciding whether to provide such assistance, to consider all relevant factors, including whether: (1) the requesting agency will provide reciprocal assistance to the FTC; (2) compliance with the request would prejudice the public interest of the United States; and (3) the requesting agency's investigation or enforcement proceeding concerns acts or practices that cause or are likely to cause injury to a significant number of persons.

Authorizes the FTC to negotiate international agreements with the approval and oversight of the Secretary of State, if a foreign law enforcement agency has set forth a legal basis for requiring execution of such an agreement as a condition for reciprocal assistance or as a condition for provision of materials or information to the FTC.

Limits the FTC's authority with respect to banks, savings and loan institutions, Federal credit unions, and common carriers.

Prohibits the FTC from providing investigative assistance to foreign law enforcement agencies from countries determined to have repeatedly provided support for acts of international terrorism.

Allows the FTC to refer evidence involving foreign persons or corporations to the Attorney General, who may institute criminal proceedings under appropriate statutes, whenever it obtains evidence that any person, partnership, or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law.

Directs the FTC to endeavor to ensure, with respect to memoranda of understanding and international agreements, that material it has obtained from foreign law enforcement agencies may be used for the purpose of investigation, prosecution, or prevention of violations of U.S. criminal laws.

Authorizes the FTC to expend appropriated funds not to exceed \$100,000 per fiscal year for operating expenses and other costs of specified bilateral and multilateral cooperative law enforcement agencies and organizations.

(Sec. 5) Allows the FTC to designate FTC attorneys to assist the Attorney General in connection with litigation in foreign courts in which the FTC has an interest. Authorizes the FTC, upon agreement with the Attorney General, to expend appropriated funds to reimburse the Attorney General for the retention of foreign counsel for litigation and related expenses in foreign courts in which the FTC has an interest.

(Sec. 6) Authorizes the FTC to share material with a foreign law enforcement agency upon prior certification that the

material will be maintained in confidence and used only for official law enforcement purposes, if: (1) such agency has set forth a legal basis for its authority to maintain the material in confidence; (2) the material is to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of foreign laws prohibiting fraudulent or deceptive commercial practices or other practices substantially similar to those prohibited by laws administered by the FTC, laws administered by the FTC if disclosure of the material would further an FTC investigation or enforcement proceeding, or (with the approval of the Attorney General) other foreign criminal laws if such laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the United States and the relevant foreign government; (3) the appropriate Federal banking agency or the National Credit Union Administration has approved the sharing of material (if requested in connection with an investigation or enforcement proceeding concerning possible violations of law by a bank, savings and loan institution, or Federal credit union); and (4) the foreign law enforcement agency is not from a country that is determined to have repeatedly provided support for acts of international terrorism.

Exempts material received by the FTC in any investigation from public disclosure under the Freedom of Information Act (FOIA).

Provides that the FTC shall not be compelled to disclose under FOIA or any other law material: (1) obtained from a foreign government agency if such agency has requested confidential treatment or has precluded such disclosure as a condition of receipt; (2) reflecting consumer complaints obtained from any other foreign source that has requested confidential treatment; or (3) reflecting a consumer complaint submitted to an FTC reporting mechanism sponsored in part by foreign government agencies. States that nothing in this section shall authorize the FTC to withhold information from Congress or prevent the FTC from complying with an order of a U.S. court in an action commenced by the United States or the FTC.

(Sec. 7) Requires application to the FTC of the Right to Financial Privacy Act (RFPA) and specified criminal laws concerning stored wire and electronic communications and transactional records access, except as otherwise provided by this section.

Makes available to the FTC procedures for delay of notification or prohibition of disclosure under RFPA and the Electronic Communication Privacy Act, provided that: (1) a court may issue an order delaying notification or prohibiting disclosure upon a finding by the presiding judge or magistrate judge that there is reason to believe that notification may cause an adverse result (defined as the transfer of assets or records outside the United States, the intimidation of potential witnesses, and other specified consequences); or (2) if notice would otherwise be required, the FTC may delay notification upon the execution of a written certification if there is reason to believe notification may cause an adverse result.

Sets forth provisions regarding: (1) ex parte application by the FTC; (2) immunity from liability for compliance by the recipient of compulsory process issued by the FTC; and (3) venue and procedure, including for applications for in camera proceedings. Makes this section inapplicable to an investigation or proceeding related to the administration of Federal or foreign antitrust laws.

(Sec. 8) Shields from liability for disclosure: (1) certain listed entities (including specified financial institutions, courier services, commercial mail receiving agencies, industry membership organizations, payment system providers, consumer reporting agencies, domain name registrars, and providers of alternative dispute resolution services) that voluntarily provide to the FTC material relevant to a possible unfair or deceptive act or practice, or relevant to assets subject to recovery by the FTC, including assets located in foreign jurisdictions; (2) financial institutions that make similar voluntary disclosures or disclosures regarding suspicious chargeback rates related to possibly fraudulent or deceptive commercial

practices; and (3) any such entities that disclose consumer complaints sent to them (does not provide any exemption from liability for the underlying conduct).

(Sec. 9) Authorizes staff exchanges with, and expenditures for cooperative arrangements with, foreign government agencies.

(Sec. 10) Includes the FTC among the agencies for which the exchange of financial records of and reports on financial institutions is permitted under RFPA.

(Sec. 11) Authorizes the FTC to: (1) accept payment or reimbursement from or on behalf of a domestic or foreign law enforcement authority for expenses incurred in carrying out FTC activities; and (2) accept unconditional gifts, donations, bequests of property, and voluntary and uncompensated services. Requires the FTC to establish written guidelines for determining whether the acceptance of such gifts, donations, or bequests would create a conflict of interest or the appearance of such a conflict.

(Sec. 13) Requires the FTC to report to Congress on its use of and experience with the authority granted by this Act.

(Sec. 14) Reauthorizes appropriations for the FTC through FY 2008.

## **Actions Timeline**

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- **Sep 17, 2004:** Received in the House.
- **Sep 17, 2004:** Message on Senate action sent to the House.
- **Sep 17, 2004:** Held at the desk.
- **Sep 15, 2004:** Measure laid before Senate by unanimous consent. (consideration: CR S9316-9321)
- **Sep 15, 2004:** The committee substitute as amended agreed to by Unanimous Consent.
- **Sep 15, 2004:** Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.(text: CR S9316-9321)
- **Sep 15, 2004:** Passed Senate with an amendment by Unanimous Consent. (text: CR S9316-9321)
- **Aug 26, 2003:** Committee on Commerce, Science, and Transportation. Reported by Senator McCain under authority of the order of the Senate of 07/29/03 legislative day 07/21/03 with an amendment in the nature of a substitute. With written report No. 108-127.
- **Aug 26, 2003:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 251.
- **Jun 19, 2003:** Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Jun 11, 2003:** Introduced in Senate
- **Jun 11, 2003:** Sponsor introductory remarks on measure. (CR S7721-7722)
- **Jun 11, 2003:** Read twice and referred to the Committee on Commerce, Science, and Transportation. (text of measure as introduced: CR S7722-7725)

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