CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

August 16, 2012

H.R. 6131
A bill to extend the Undertaking Spam, Spyware, and Fraud Enforcement with Enforcers beyond Borders Act of 2006, and for other purposes

As ordered reported by the House Committee on Energy and Commerce on July 31, 2012

CBO estimates that implementing H.R. 6131 would have no significant effect on discretionary spending over the 2013-2017 period. Enacting H.R. 6131 could result in collections of additional civil and criminal penalties, which would affect both revenues and direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that those effects also would be insignificant.

H.R. 6131 would reauthorize the Undertaking Spam, Spyware, and Fraud Enforcement with Enforcers beyond Borders Act, which will expire on December 22, 2013. The act provides administrative tools to the Federal Trade Commission (FTC) that augment its authority to enforce federal laws related to unfair and deceptive trade practices, such as sharing information with foreign agencies and investigating fraud that originates outside of the United States. The bill also would extend an authorization to appropriate $100,000 each year for the FTC to collaborate with foreign governments and to participate in multinational organizations related to law enforcement. Based on information from the FTC, CBO expects that enacting H.R. 6131 could change the types of fraud cases the agency investigates but would not change the agency's workload. Therefore, CBO estimates that implementing H.R. 6131 would not have a significant effect on discretionary costs over the 2013-2017 period.

Enacting H.R. 6131 could increase federal revenues and direct spending as a result of additional criminal and civil penalties assessed for violations of laws related to unfair and deceptive trade practices. Collections of civil penalties are recorded in the budget as revenues. Collections of criminal penalties are recorded in the budget as revenues, deposited in the Crime Victims Fund, and later spent. CBO estimates that the net effects of those transactions would be insignificant for each year because of the relatively small number of cases likely to be involved.

H.R. 6131 would impose intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by extending preemptions of state and local laws that prohibit individuals from disclosing information to the FTC and that require individuals to notify third parties if they disclose information to the FTC. Under current law, the preemptions would expire at the end of 2013; the bill would extend them until September 30, 2020. While the preemptions would limit the application of state and local law, CBO estimates that they would impose no duty on state, local, or tribal governments that would result in additional spending.

H.R. 6131 also would extend an existing mandate that exempts from liability private entities that voluntarily provide certain information about third parties to the FTC. The extension of such protections constitutes a mandate on those third-party entities because it limits their ability to file a claim for the disclosure or failure to provide notice of disclosure. The cost of the mandate would be the forgone net value of settlements and damages that would have been awarded. Based on information from the FTC, few such lawsuits would probably be filed. Therefore, CBO expects that the cost of the mandate would fall below the annual threshold for private-sector mandates established in UMRA ($146 million, adjusted annually for inflation).

The CBO staff contacts for this estimate are Susan Willie (for federal costs), Elizabeth Cove Delisle (for the impact on state and local governments), and Marin Randall (for the impact on the private sector). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.