

116TH CONGRESS
1ST SESSION

H. R. 4048

To limit the use, recording, or transmission of any speech or sound captured by a smart speaker, or any video or image captured by a video doorbell, and to prohibit, as an unfair or deceptive act or practice, such use, recording, or transmission without the express consent of the consumer.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. MOULTON introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To limit the use, recording, or transmission of any speech or sound captured by a smart speaker, or any video or image captured by a video doorbell, and to prohibit, as an unfair or deceptive act or practice, such use, recording, or transmission without the express consent of the consumer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Automatic Listening
5 Exploitation Act of 2019”.

1 **SEC. 2. CONDUCT PROHIBITED.**

2 (a) SMART SPEAKERS.—It shall be unlawful for a
3 person who provides any smart service through a propri-
4 etary smart speaker to—

5 (1) store or make a recording or transcript of
6 any speech or sound captured by a smart speaker
7 unless—

8 (A) the smart speaker is specifically acti-
9 vated to do so by detecting an audible wake
10 word or phrase that is known to the user; and

11 (B) the smart speaker first makes an audi-
12 ble response or visual indication upon activation
13 by such wake word or phrase; or

14 (2) use any storage or recording or transcript
15 of any voice interaction by a user with the voice-user
16 interface, or transmit such recording or transcript to
17 a third party, for any purpose—

18 (A) other than to—

19 (i) process a request and provide the
20 service the user is requesting;

21 (ii) improve the speech recognition
22 and natural language understanding of the
23 voice-user interface; or

24 (iii) help the voice-user interface to
25 adapt to speech patterns, vocabulary, and
26 personal preferences; and

1 (B) without—

2 (i) first providing to the user of the
3 smart speaker when the speaker is first set
4 up for use a clear and conspicuous notice,
5 set off from other text in any user agree-
6 ment, of the specific purpose or purposes
7 described in subparagraph (A);

8 (ii) first obtaining the express consent
9 of the user for that specific purpose; and

10 (iii) permitting the user of the smart
11 speaker to require the deletion of any re-
12 cording or transcript of any speech or
13 sound captured by a smart speaker of such
14 user at any time.

15 (b) VIDEO DOORBELLS.—It shall be unlawful for a
16 person who provides any security monitoring or other serv-
17 ice through a proprietary video doorbell to—

18 (1) store or make a recording of any video,
19 image, or audio captured by the video doorbell's
20 camera unless—

21 (A) the video doorbell is specifically acti-
22 vated to do so when an individual presses the
23 button of the doorbell, or alternatively, when
24 the doorbell senses an individual at the doorstep
25 with its built-in motion sensors, or is activated

1 remotely by the user of the doorbell through the
2 user's smartphone, computer, or similar inter-
3 net-enabled mobile device; and

4 (B) such video or image is provided to the
5 user of the video doorbell at the time such video
6 or image is captured; or

7 (2) use any storage or recording of any video,
8 image, or audio captured by the video doorbell's
9 camera, or transmit such recording to a third party,
10 for any purpose—

11 (A) other than to provide the video, image,
12 or audio to the user of the video doorbell or to
13 allow the user using a smartphone, computer,
14 or other internet-enabled device to watch and
15 talk with a guest at the door by using the
16 doorbell's built-in camera and microphone; and

17 (B) without—

18 (i) first providing to the user of the
19 video doorbell when the video doorbell is
20 first set up for use a clear and conspicuous
21 notice, set off from other text in any user
22 agreement, of the specific purpose or pur-
23 poses described in subparagraph (A);

24 (ii) first obtaining the express consent
25 of the user for that specific purpose; and

1 (iii) permitting the user of the video
2 doorbell to require the deletion of any re-
3 cording of any video or image captured by
4 the video doorbell's camera of such user at
5 any time.

6 **SEC. 3. ENFORCEMENT.**

7 (a) FEDERAL TRADE COMMISSION.—

8 (1) UNFAIR OR DECEPTIVE ACT OR PRAC-
9 TICE.—A violation of a section 2 shall be treated as
10 a violation of a rule defining an unfair or deceptive
11 act or practice prescribed under section 18(a)(1)(B)
12 of the Federal Trade Commission Act (15 U.S.C.
13 57a(a)(1)(B)).

14 (2) POWERS OF COMMISSION.—The Federal
15 Trade Commission shall enforce this Act in the same
16 manner, by the same means, and with the same ju-
17 risdiction, powers, and duties as though all applica-
18 ble terms and provisions of the Federal Trade Com-
19 mission Act (15 U.S.C. 41 et seq.) were incor-
20 porated into and made a part of this Act. Any per-
21 son who violates section 2 shall be subject to the
22 penalties and entitled to the privileges and immuni-
23 ties provided in the Federal Trade Commission Act
24 (15 U.S.C. 41 et seq.).

1 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
2 ERAL.—

3 (1) IN GENERAL.—If the attorney general of a
4 State, or an official or agency designated by a State,
5 has reason to believe that any person has violated or
6 is violating this Act, the attorney general, or other
7 official or agency of the State, in addition to any au-
8 thority it may have to bring an action in State court
9 under its consumer protection law, may bring a civil
10 action in any appropriate United States district
11 court or in any other court of competent jurisdiction,
12 including a State court, to—

13 (A) enjoin further such violation by the de-
14 fendant;

15 (B) enforce compliance with this Act; or

16 (C) obtain civil penalties not to exceed
17 \$40,000 per violation.

18 (2) NOTICE AND INTERVENTION BY THE
19 FTC.—The attorney general of a State shall provide
20 prior written notice of any action under paragraph
21 (1) to the Federal Trade Commission and provide
22 the Commission with a copy of the complaint in the
23 action, except in any case in which such prior notice
24 is not feasible, in which case the attorney general

1 shall serve such notice immediately upon instituting
2 such action. The Commission shall have the right—

3 (A) to intervene in the action;

4 (B) upon so intervening, to be heard on all
5 matters arising therein; and

6 (C) to file petitions for appeal.

7 (3) LIMITATION ON STATE ACTION WHILE FED-
8 ERAL ACTION IS PENDING.—If the Federal Trade
9 Commission has instituted a civil action for violation
10 of this Act, no State attorney general, or official or
11 agency of a State, may bring an action under para-
12 graph (1) during the pendency of the action initiated
13 by the Commission against any defendant named in
14 the complaint of the Commission for any violation of
15 this Act alleged in the complaint.

16 **SEC. 4. DEFINITIONS.**

17 As used in this Act, the following definitions apply:

18 (1) The term “Internet-enabled” means, with
19 respect to an electronic device, that the device can
20 connect to the Internet directly or through another
21 device.

22 (2) The term “person” means any individual,
23 partnership, corporation, trust, estate, cooperative,
24 association, or other entity.

1 (3) The term “smart service” means any serv-
2 ice provided to a consumer using a smart speaker,
3 such as Internet content streaming services or vir-
4 tual assistant services.

5 (4) The term “smart speaker” means an Inter-
6 net-enabled electronic device that can be controlled
7 through a voice-user interface that provides a smart
8 service to a user.

9 (5) The term “user” means—

10 (A) an individual who uses or interacts
11 with a smart speaker using spoken or other
12 commands; or

13 (B) an individual who is provided images
14 or audio captured by, or the ability to interact
15 with, a video doorbell through the user’s smart-
16 phone, tablet computer, or similar Internet-en-
17 abled mobile device.

18 (6) The term “video doorbell” means an Inter-
19 net-enabled doorbell, equipped with a camera or
20 microphone, or both, that—

21 (A) notifies the smartphone, computer, or
22 similar Internet-enabled mobile device of a user
23 when a guest arrives to the entrance of the
24 door;

1 (B) is activated when the guest presses the
2 button of the doorbell, or alternatively, when
3 the doorbell senses a guest with its built-in mo-
4 tion sensors, or activate remotely by the user of
5 the doorbell through the user’s smartphone,
6 computer, or similar Internet-enabled mobile
7 device; and

8 (C) may allow the user using the
9 smartphone, computer, or other Internet-en-
10 abled device to watch and talk with the guest
11 by using the doorbell’s built-in camera and
12 microphone.

13 (7) The term “voice-user interface” is a speech
14 recognition technology that understands spoken com-
15 mands and questions to allow people to communicate
16 with a computer or smart speaker.

17 (8) The term “wake word or phrase” means a
18 spoken word or phrase that triggers the voice-user
19 interface on a smart speaker to listen for user com-
20 mands or queries.

○