



FEDERAL TRADE COMMISSION
OFFICE OF INTERNATIONAL AFFAIRS

U.S. SAFE WEB ACT INFORMATION SHEET

The U.S. SAFE WEB Act is a law that gives the Federal Trade Commission (FTC), a U.S. government agency, the authority to provide evidence to foreign law enforcement agencies to support appropriate foreign investigations or enforcement actions. This information sheet explains when and how the FTC can provide such assistance. A key requirement is that such proceedings address conduct substantially similar to something that would violate a law the FTC enforces. Foreign law enforcement agencies interested in assistance from the FTC should send an e-mail to OIA@ftc.gov to ask questions and/or obtain a request form.

Who can submit a request for assistance?

Foreign law enforcement agencies are the only entities that may submit a request for information sharing or investigative assistance under the Act. A foreign law enforcement agency is defined by statute as any agency or judicial authority of a foreign government (including a foreign state, its political subdivision, or a multinational organization comprised of foreign states) that has civil, criminal, or administrative law enforcement or investigative authority. It also includes any multinational organization acting on behalf of such an entity. The FTC cannot use its authority to assist agencies from countries that the Secretary of State has determined support international terrorism.

Does the foreign agency have to keep the information confidential?

Yes. The foreign agency must provide a written certification that the materials provided will be maintained in confidence and will be used only for official law enforcement purposes. The foreign agency must also identify the legal basis for its authority to maintain the material in confidence.

When can the FTC share compelled or confidential information with foreign law enforcement agencies?

The FTC may share compelled or confidential information with foreign law enforcement agencies if the materials will be used to investigate or pursue enforcement proceedings related to possible violations of:

- foreign laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by laws the Commission administers;

- a law the Commission administers, if disclosure of the material would further a Commission investigation or enforcement proceeding; or
- with approval of the U.S. Attorney General, other foreign criminal laws, if they are offenses defined in a criminal mutual legal assistance treaty between the U.S. and the requesting country.

The Act's information sharing provisions do not apply to antitrust laws. Also, if the matter relates to a bank, savings and loan institution, or credit union, the FTC must obtain prior approval from the relevant regulators before sharing the information.

What type of cases may qualify for investigative assistance?

The FTC may provide assistance in investigations or enforcement proceedings for violations of laws prohibiting fraudulent or deceptive practices, or practices substantially similar to those prohibited by laws the FTC administers. The Act's investigative assistance authority excludes matters relating to violations of antitrust laws and foreign investigations or actions in which the targets are banks, savings and loan institutions, federal credit unions, and common carriers.

What type of investigative assistance can the FTC provide?

The principal type of investigative assistance the FTC may provide is issuing an administrative subpoena to compel documents or other evidence. The FTC has obtained information from several companies, including domain name registrars, email service providers, and telephone service providers, using this mechanism. In so doing, the FTC has successfully provided subscriber information to foreign agencies that has helped them to confirm the identity of suspects operating foreign scams, as well as identify additional victims of those scams. The Act also authorizes the FTC to use other mechanisms for obtaining information on behalf of foreign agencies.

What is the FTC required to consider when deciding whether to provide investigative assistance?

The FTC must consider the following factors:

- whether the requesting foreign law enforcement agency has agreed to provide or will provide reciprocal assistance;
- whether approval of the request would prejudice U.S. public interest; and
- whether 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.

What information does the foreign agency have to provide on the request form?

The FTC asks the foreign agency to provide, among other things, the following information:

- a description of the agency, including the source of its authority to investigate or enforce the relevant law and the basis for its ability to keep the requested material confidential;
- a description of the conduct at issue, including the potential law violation, the type of enforcement proceeding, and the number of people harmed by the target's practices;
 - a description of the specific information it would like the FTC to provide and how it intends to use those materials; and
- a description of any assistance the foreign agency has previously provided to the FTC, if applicable, and whether the foreign agency intends to use its best efforts to assist the FTC in the future.

What should a foreign agency do if it is interested in requesting assistance from the FTC?

The foreign agency should send an e-mail to OIA@ftc.gov to obtain a request form. In addition, a foreign agency may obtain further information about the Act from the FTC's website at <http://www.ftc.gov/ogc/stat1.shtm>.