

1 {York Stenographic Services, Inc.}

2 RPTS ALDINGER

3 HIF191.170

4 MARKUP OF H.R. \_\_\_\_\_, TARGETING ROGUE AND OPAQUE LETTERS ACT  
5 OF 2014;

6 H.R. 4013, LOW VOLUME MOTOR VEHICLE MANUFACTURERS ACT OF  
7 2014;

8 AND H.R. 4450, TRAVEL PROMOTION, ENHANCEMENT AND  
9 MODERNIZATION ACT OF 2014

10 THURSDAY, JULY 10, 2014

11 House of Representatives,

12 Subcommittee on Commerce, Manufacturing and Trade

13 Committee on Energy and Commerce

14 Washington, D.C.

15 The subcommittee met, pursuant to call, at 10:12 a.m.,  
16 in Room 2123 of the Rayburn House Office Building, Hon. Lee  
17 Terry [Chairman of the Subcommittee] presiding.

18 Members present: Representatives Terry, Lance,

19 Blackburn, Guthrie, Olson, McKinley, Kinzinger, Bilirakis,  
20 Johnson, Long, Barton, Upton (ex officio), Schakowsky,  
21 McNerney, Welch, Yarmuth, Dingell, Rush, Matheson, Barrow,  
22 and Waxman (ex officio).

23       Staff present: Gary Andres, Staff Director; Charlotte  
24 Baker, Deputy Communications Director; Mike Bloomquist,  
25 General Counsel; Sean Bonyun, Communications Director; Matt  
26 Bravo, Professional Staff Member; Leighton Brown, Press  
27 Assistant; Melissa Froelich, Counsel, CMT; Sydne Harwick,  
28 Legislative Clerk; Brittany Havens, Legislative Clerk; Kirby  
29 Howard, Legislative Clerk; Peter Kielty, Deputy General  
30 Counsel; Alexa Marrero, Deputy Staff Director; Paul Nagle,  
31 Chief Counsel, CMT; Charlotte Savercool, Legislative  
32 Coordinator; Shannon Weinberg Taylor, Counsel, CMT; Michelle  
33 Ash, Democratic General Counsel; Phil Barnett, Democratic  
34 Staff Director; Jen Berenholz, Democratic Chief Clerk; Lisa  
35 Goldman, Democratic Counsel; Carol Kando-Pineda, Democratic  
36 FTC Detailee; and Will Wallace, Democratic Professional Staff  
37 Member.

|

38 H.R. \_\_\_\_\_

39 Mr. {Terry.} The subcommittee will come to order. At

40 the conclusion of yesterday's opening statements, the chair

41 called up the discussion draft of Targeting Rogue and Opaque

42 Letters, and the Bill was open for amendment at any point.

43 Are there any bipartisan amendments to this Bill? Are there

44 any other amendments to this Bill?

45 The chair--and the chair has an amendment, of which I am

46 offer--will offer and withdraw. The Bill currently requires

47 the sender of a demand letter to--do we have to hand out the

48 amendment?

49 The {Clerk.} Yeah.

50 {Voice.} The court clerk will--

51 Mr. {Terry.} The clerk will report the amendment. That

52 is what I was looking--

53 {Voice.} What amendment?

54 The {Clerk.} Which number is the amendment, sir?

55 Mr. {Terry.} It is PDL 301.

56 The {Clerk.} Amendment to the committee print offered

57 by Mr. Terry of Nebraska.

58 [The amendment of Mr. Terry follows:]

59 \*\*\*\*\* INSERT 1 \*\*\*\*\*

|

60           Mr. {Terry.} Thank you. And I will recognize myself  
61 for 5 minutes.

62           The Bill currently requires the sender of a Demand  
63 Letter to identify the person asserting a patent right, and  
64 also requires the identification of any parent entity or  
65 ultimate parent entity of that person, unless the person  
66 asserting the patent is a public company. The purpose is to  
67 prevent one person or company from hiding behind hundreds of  
68 shell companies in order to evade detection or to obscure  
69 their pattern of deceitful behavior. The exception for  
70 public companies is because their corporate structure,  
71 meaning any parent companies, are already public and more  
72 easily discovered.

73           The reality of large companies, however, is that they  
74 may hold thousands of patents across a number of holding  
75 companies or affiliates, and some of those holding companies  
76 may not be public companies. In these cases, it is more  
77 accurate to require the sender to identify a single affiliate  
78 that is authorized to represent the patent rights holder,  
79 rather than the parent company, because the parent company is  
80 not always the rights-holding entity.

81           The amendment allows the sender of the letter to  
82 identify either the person asserting the right or the

83 affiliate who is asserting the right on their behalf.  
84 Additionally, the amendment will extend the exception to not  
85 have the--to have to identify one's parent company if you are  
86 a public company, because your corporate structure is already  
87 public, but also allow you to omit the name of your parent  
88 company if you are an affiliate of a public company whose  
89 name is reasonably identifiable from your name. This  
90 amendment is meant to accomplish the same purpose of  
91 preventing a bad actor from hiding behind multiple shell  
92 companies without confusing the recipient as to who holds the  
93 patent rights. However, because the negotiations on how to  
94 best effectuate this are going on, I offer and withdraw this  
95 amendment as removed to full committee. We all, of course,  
96 welcome any and all comments on this issue.

97       So anybody else--my--I yield back my time. Anybody else  
98 care to discuss this amendment?

99       Ms. {Schakowsky.} Yes, thank you.

100       Mr. {Terry.} The gentlelady from Illinois is recognized  
101 for 5 minutes.

102       Ms. {Schakowsky.} Thank you, Mr. Chairman. I just want  
103 to say that I certainly agree with the concept of not  
104 letting--not hiding behind a shell company, and the  
105 disclosure, not sure that the amendment that you had got  
106 there, I know it is withdrawn, but I am hoping that we will

107 be able to work between now and full committee, and I would  
108 appreciate very much if you would work with me and the  
109 minority to come up with an amendment that addresses this  
110 particular issue.

111 And I yield back.

112 Mr. {Terry.} Thank you. And to answer your question,  
113 of course, we would love to continue our discussions. We--it  
114 started in a bipartisan manner, and we are going to continue  
115 that until we get a Bill that we can markup in full  
116 committee.

117 No further requests on this amendment. Unanimous  
118 consent to withdraw the amendment. So ordered.

119 Clerk, I have an amendment at the desk; Terry 088.

120 The {Clerk.} Amendment to the committee print offered  
121 by Mr. Terry of Nebraska.

122 [The amendment of Mr. Terry follows:]

123 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|

124           {Voice.} Dispense with the reading.

125           Mr. {Terry.} And without objection, dispense with the  
126 reading, please distribute the amendment.

127           I will recognize myself for 5 minutes on this amendment.

128           This amendment--it is the first part of this amendment  
129 strikes and replaces the affirmative defense language in the  
130 draft. The language contained in the amendment reflects an  
131 earlier agreement by the stakeholders. The language in the  
132 underlying text was intended to achieve the same result as  
133 that which is in the amendment. The language was changed  
134 merely for grammatical purposes, but some stakeholders were  
135 concerned that the language would limit the FTC. By striking  
136 the phrase ``shall be sufficient'', and replacing it with the  
137 phrase ``which may be demonstrated by'', we clarified that  
138 the FTC may look at the totality of the--a sender's letters  
139 and determine whether their usual course of business is to  
140 send non-violative letters, and may also look at other  
141 factors.

142           The second part of this amendment is really more of a  
143 technical amendment. The Vermont AG has offered thoughtful  
144 comments at both of our hearings, and as a result, there are  
145 a number of changes in the base text from the first draft we  
146 released earlier this year. One of the changes the Vermont

147 AG requested was they--was to be able to get civil penalties,  
148 as opposed to compensatory damages. We thought this was a  
149 reasonable request. This amendment drops the unnecessary  
150 phrase ``on behalf of recipients who suffered actual damages  
151 as a result of such violation'' in that civil penalty section  
152 as suggested by the Vermont AG.

153 Now, I yield back the rest of my time. Does anybody  
154 else want--wish to claim time in opposition or discussion?

155 Mr. Waxman, you are recognized for--

156 Mr. {Waxman.} Thank you, Mr. Chairman. I appreciate  
157 the effort through this amendment to clarify the state civil  
158 penalties portion of the Bill. I would support that portion  
159 of the amendment, but the proposed change to the affirmative  
160 defense is--remains still very problematic, as are a number  
161 of other provisions in this Bill.

162 The Bill contains a number of safeguards for patent-  
163 holders that send legitimate patent assertion letters,  
164 including requirements that the sender has engaged in a  
165 pattern or practice of violating the statute, and that the  
166 sender has sent the letters with knowledge that the  
167 representation made were false or misleading, but the  
168 affirmative defense in this Bill, even as modified by this  
169 amendment, says that because a center--sender hasn't violated  
170 the statute before, it couldn't be violating the statute now,



171 even where all the evidence points to the contrary. In this  
172 way, the affirmative defense creates a loophole that could  
173 eviscerate the rest of the Bill.

174       Even if this amendment deleted the affirmative defense,  
175 other provisions of the Bill not addressed by the amendment  
176 continue to raise serious concerns. The bad faith element is  
177 a stark deviation from consumer protection law. Under its  
178 traditional authority, the FTC can obtain an injunction  
179 without proving any element of knowledge. To obtain an  
180 injunction under the Bill for the enumerated bad acts and  
181 practice, the FTC would have to prove that the violation  
182 occurred, and that the sender knew its conduct was deceptive.  
183 This requirement makes enforcement much more difficult than  
184 current law. Also FTC staff has stated very clearly that the  
185 bad faith element makes all disclosure requirements  
186 effectively unenforceable.

187       This Bill also severely constrains the state's ability  
188 to combat deceptive demand letters by preempting a number of  
189 state laws as well as state common law that address these  
190 letters. Moreover, the state's ability to enforce this  
191 statute is limited by the arbitrary cap on civil penalties  
192 that can be collected by all states for violations of this  
193 statute, and the link between civil penalties and actual  
194 damages suffered by recipients. These are major problems

195 that make the Bill, as I see it, unworkable, and I would urge  
196 my colleagues to vote against this Bill.

197 And I yield back--I yield my time to Mr. McNerney.

198 Mr. {McNerney.} Well, thank you. I want to thank the  
199 chairman for his work, especially in a bipartisan way, to put  
200 this forward. It is an important issue. I am a patent-  
201 holder; I want to make sure that my rights are protected, as  
202 well as making sure that the law doesn't adversely affect  
203 innovation in this country.

204 But as I have seen, the AG in Vermont had a number of  
205 specific changes. The--Oregon also had a number of specific  
206 changes. I don't think we are ready to put this Bill  
207 forward, so I--again, I thank the chairman. I look forward  
208 to working on a bipartisan way to make this Bill better to  
209 put forward to the committee.

210 And I yield back.

211 Mr. {Waxman.} You want my time or you want your own?

212 Mr. {McNerney.} My own. I am sorry.

213 Mr. {Waxman.} Okay. Yield back my time.

214 Mr. {Terry.} Very good. Anyone on this side requests  
215 time on this amendment?

216 Gentlelady from Illinois is recognized for 5 minutes.

217 Ms. {Schakowsky.} Thank you, Mr. Chairman.

218 While I am not going to oppose this amendment, it does

219 not really begin to adequately fix the Bill. Even with this  
220 amendment, the affirmative defense provision, as stated by  
221 Mr. Waxman, would allow a bad actor to avoid liability simply  
222 because he didn't have a history of sending deceptive  
223 letters. The amendment doesn't even specify that the letters  
224 have to relate to patent assertion. If an entity has a  
225 history of sending any letters that do not violate the  
226 provisions of this Bill, the entity could avoid liability for  
227 even the most egregious patent demand letters. The amendment  
228 would also strike the important language from the Bill,  
229 specifying that State Attorneys General can obtain civil  
230 penalties on behalf of their citizens who receive demand  
231 letters that violate this Act.

232       Beyond the failure to adequately address the affirmative  
233 defense position--provision, the--this amendment also does  
234 not address other problematic aspects of the Bill. It  
235 doesn't fix the Bill's preemption of more protective state  
236 laws, it doesn't address the bad faith definition that would  
237 require the FTC to determine the intention of the bad actor  
238 in order to provide relief to small businesses and  
239 entrepreneurs, again, as Mr. Waxman stated, and this Bill  
240 does not address all the deceptive conduct we have already  
241 seen in patent demand letters. For example, I received a  
242 copy of a letter sent to a bank asserting infringement of a

243 patent portfolio covering ATM's. The letter provided no  
244 information about the patent portfolio or the alleged  
245 infringement, other than to say that the bank ``has at least  
246 one ATM.'' The letter made a ``special, one-time, limited  
247 offer'' to license the patent for \$2,000 per ATM, which must  
248 be accepted within 14 days of the date of the letter. Later,  
249 the bank received another letter, increasing the cost to  
250 license the patent to \$5,000 per ATM. The letters gave an  
251 unreasonable deadline for response to its ``special, one-  
252 time, limited offer.'' They also demanded a licensing fee  
253 without any basis for the amount demanded, and that  
254 arbitrarily increased the fee. By any reasonable standard,  
255 those letters are unfair or deceptive, but are not prohibited  
256 by this Bill.

257 Finally, I would like to comment on recent Press reports  
258 and statements made about how the latest draft of this Bill  
259 was crafted. It has been suggested that any concern raised--  
260 concerns raised were either last-minute or surprising. While  
261 the majority did seek to bring some stakeholders together  
262 over the last month, the minority staff continually raised  
263 concerns that several relevant stakeholders were not part of  
264 those conversations, and did not have access to the draft  
265 language. In addition, general concerns of state and federal  
266 enforcers were shared throughout the process, and specific

267 concerns were raised as soon as those stakeholders were able  
268 to see the actual language.

269         In closing, while I will not oppose this amendment, I  
270 continue to oppose the Bill. As I said yesterday in my  
271 opening statement, I hope, and I sincerely mean that, that  
272 language can be crafted that actually addresses the problem  
273 that this committee has now been considering for quite a  
274 while, ever since the issue was brought before the Oversight  
275 Committee last December.

276         I look forward to working with the chairman and the  
277 majority in the coming week. And I yield back.

278         Mr. {Terry.} Thank you. Gentlelady yields back her  
279 time.

280         Any--anyone on the Republican side, the majority side?  
281 So the gentleman from Vermont is recognized for 5 minutes.

282         Mr. {Welch.} Mr.--thank you very much, Mr. Chairman.

283         I want to thank you and Chairman Upton. We have had a  
284 good thing going on this patent TROL situation. And just a  
285 little context, because a lot of us have reservations about  
286 this particular thing, but a little context. As a result of  
287 the work of this committee, the House of Representatives  
288 passed a very good patent TROL Bill with a vote of 325 to 91,  
289 and that was a product of a lot of hard work by a lot of  
290 people on both sides of the aisle. Unfortunately, that

291 stalled in the Senate, and it has been taken off the Senate  
292 calendar, but that is really the touchstone for me of a  
293 comprehensive approach to give relief to the folks in your  
294 district and mine who are getting hammered with this rip-off  
295 patent TROL situation.

296         The recent--unfortunately though, I can't support this,  
297 but do appreciate the effort going forward.

298         By the way, I want to say another thing. There were 8  
299 stakeholder meetings, and we were at them. You know,  
300 everybody is not at them, but I really did regard them as a  
301 very serious effort to try to get the stakeholders to reach  
302 an agreement. But the problem that I have going forward is--  
303 because I checked with my folks in Vermont, as we would all  
304 do, and Vermont has been out in the lead. This Jerry Tarrant  
305 who has a company that has done very well, has been hammered  
306 repeatedly with this, and he doesn't see this as providing  
307 any relief. And that is particularly true in Vermont because  
308 we have an active Attorney General, and we have an active  
309 legislature that has put forward protections that would be  
310 greater than what exist in this particular legislation. So  
311 the preemption issue here would actually take away some tools  
312 that Vermont has developed. So obviously, from my  
313 perspective, that is not a good thing.

314         And that goes, by the way, for the My WebMD, which is

315 Jerry Tarrant's company, and Lincoln Street, which is a small  
316 nonprofit that helps kids with disabilities. The 2 issues in  
317 here that RAG pointed out; the bad faith and increased  
318 knowledge, as others have reported, is an issue because it  
319 makes it very difficult to prove it, and it makes it so  
320 difficult to prove that other responsible people who have  
321 been involved in this don't see this as really enforceable.

322         The other issue is the affirmative defense position  
323 really creates an impossibility when it goes to court. So  
324 the preemption of the affirmative defense and the bad faith  
325 all actually, from the way I see it, weaken what we did as a  
326 House of Representatives when we passed the overall Patent  
327 TROL Bill.

328         You know, one of the difficulties here is there really  
329 are competing interests. Some of our larger companies that  
330 are legitimate players want to protect their patents, as they  
331 should, but the smaller folks are getting ripped off, and how  
332 do we protect them without encroaching on legitimate patent  
333 rights, and that was the effort that was made in some of  
334 these stakeholder meetings, but I don't think it got finally  
335 worked out.

336         One of the other apprehensions I have, and this is a  
337 judgment call, is that if we pass this, there are a lot of  
338 folks who are out there that are opposing the legislation

339 that we passed in the House by that big overwhelming vote,  
340 and the passage of this is going to become an excuse for the  
341 Senate not to act on what is a comprehensive Bill that was a  
342 bipartisan-strong vote passed by the House of  
343 Representatives. So let us try to keep working on this, but  
344 those are the problems that I see as undercutting the  
345 progress that we made already with the legislation the House  
346 of Representative passed.

347 So I yield back.

348 Mr. {Terry.} Gentleman yields back his time.

349 Any other requests? There are no other requests for  
350 time on this amendment, and I ask unanimous consent to  
351 withdraw the amendment. I am sorry. If there is no further  
352 discussion, the--although--sorry, I was misinformed. If the--  
353 -there is no further discussion, the vote occurs on the  
354 amendment.

355 All those in favor, say aye.

356 All those opposed, say no.

357 In the opinion of the chair, the noes have it. The  
358 ayes. Geez.

359 {Voice.} The ayes.

360 Mr. {Terry.} I heard 2 noes in the whole bunch.  
361 Coffee, and obviously not enough.

362 The ayes have it, and the amendment is agreed to.



363           Are there any other amendments? So hearing no other  
364 amendments, the question now occurs on forwarding the  
365 discussion draft to the full committee as amended.

366           All those in favor, say aye.

367           All those opposed, say no.

368           In the opinion of--

369           Ms. {Schakowsky.} I would like a roll call vote.

370           Mr. {Terry.} We will go right to the roll call. The  
371 clerk will call the roll.

372           The {Clerk.} Mr. Lance.

373           Mr. {Lance.} Aye.

374           The {Clerk.} Mr. Lance votes aye.

375           Mrs. Blackburn.

376           [No response.]

377           The {Clerk.} Mr. Harper.

378           Mr. {Harper.} Aye.

379           The {Clerk.} Mr. Harper votes aye.

380           Mr. Guthrie.

381           Mr. {Guthrie.} Aye.

382           The {Clerk.} Mr. Guthrie votes aye.

383           Mr. Olson.

384           Mr. {Olson.} Aye.

385           The {Clerk.} Mr. Olson votes aye.

386           Mr. McKinley.

387 Mr. {McKinley.} Aye.  
388 The {Clerk.} Mr. McKinley votes aye.  
389 Mr. Pompeo.  
390 [No response.]  
391 The {Clerk.} Mr. Kinzinger.  
392 [No response.]  
393 The {Clerk.} Mr. Bilirakis.  
394 Mr. {Bilirakis.} Aye.  
395 The {Clerk.} Mr. Bilirakis votes aye.  
396 Mr. Johnson.  
397 Mr. {Johnson.} Aye.  
398 The {Clerk.} Mr. Johnson votes aye.  
399 Mr. Long.  
400 Mr. {Long.} Aye.  
401 The {Clerk.} Mr. Long votes aye.  
402 Mr. Barton.  
403 [No response.]  
404 The {Clerk.} Mr. Upton.  
405 The {Chairman.} Aye.  
406 The {Clerk.} Mr. Upton votes aye.  
407 Ms. Schakowsky.  
408 Ms. {Schakowsky.} No.  
409 The {Clerk.} Ms. Schakowsky votes no.  
410 Mr. Sarbanes.

411 [No response.]  
412 The {Clerk.} Mr. McNerney.  
413 Mr. {McNerney.} No.  
414 The {Clerk.} Mr. McNerney votes no.  
415 Mr. Welch.  
416 Mr. {Welch.} No.  
417 The {Clerk.} Mr. Welch votes no.  
418 Mr. Yarmuth.  
419 Mr. {Yarmuth.} No.  
420 The {Clerk.} Mr. Yarmuth votes no.  
421 Mr. Dingell.  
422 Mr. {Dingell.} No.  
423 The {Clerk.} Mr. Dingell votes no.  
424 Mr. Rush.  
425 [No response.]  
426 The {Clerk.} Mr. Matheson.  
427 Mr. {Matheson.} Aye.  
428 The {Clerk.} Mr. Matheson votes aye.  
429 Mr. Barrow.  
430 Mr. {Barrow.} Aye.  
431 The {Clerk.} Mr. Barrow votes aye.  
432 Mrs. Christensen.  
433 [No response.]  
434 The {Clerk.} Mr. Waxman.

435 Mr. {Waxman.} No.  
436 The {Clerk.} Mr. Waxman votes no.  
437 Chairman Terry.  
438 Mr. {Terry.} Aye.  
439 The {Clerk.} Chairman Terry votes aye.  
440 Mrs. Blackburn.  
441 Mrs. {Blackburn.} Aye.  
442 The {Clerk.} Mrs. Blackburn votes aye.  
443 Mr. {Terry.} The clerk will report the results.  
444 The {Clerk.} Mr. Chairman, on that vote there were 13  
445 ayes and 16 nays.  
446 Mr. {Terry.} The ayes have it, and the Bill is agreed  
447 to.  
448 {Voice.} She said there were 16 nays. What was the--  
449 Mr. {Terry.} The clerk will--  
450 The {Clerk.} My apologies, 13 ayes, 6 nays.  
451 Mr. {Terry.} Thirteen ayes, 6 nays. The ayes have it,  
452 and the Bill is agreed to. All right. The Carr Bill.

|

453 H.R. 4013

454 Mr. {Terry.} The chair calls up 4013--H.R. 4013, and  
455 asks the clerk to report.

456 The {Clerk.} H.R. 4013, to direct the National Highway  
457 Traffic Safety Administration to establish a program allowing  
458 low volume motor vehicle manufacturers to produce a limited  
459 number of vehicles annually within a regulatory system that  
460 addresses the unique safety and financial issues associated  
461 with limited production, and to direct the Environmental  
462 Protection Agency to allow low volume motor vehicle  
463 manufacturers to install engines from vehicles that have been  
464 issued certificates of conformity.

465 [H.R. 4013 follows:]

466 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|

467           Mr. {Terry.} Without objection, first reading of the  
468 Bill is dispensed with, and the Bill will be open for  
469 amendment at any point. So ordered.

470           The chair recognizes himself to offer an amendment in  
471 the nature of a substitute, and the clerk will report the  
472 amendment.

473           The {Clerk.} Amendment in the nature of a substitute to  
474 H. R. 4013, offered by Mr. Terry of Nebraska.

475           [The amendment of Mr. Terry follows:]

476           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

477           Mr. {Terry.} Without objection, the reading of the  
478 amendment is dispensed with, and I will recognize myself for  
479 5 minutes in support of the amendment.

480           The original intent of the legislation was to enable  
481 small automakers to provide a limited number of specialty  
482 vehicles, both replica and non-replica vehicles, to customers  
483 nationwide. Replica vehicles resemble cars older than 25  
484 years, while non-replica would cover newer vehicles such as  
485 sports cars.

486           With this amendment, the legislation now only applies to  
487 replica cars. As noted, these are motor vehicles produced in  
488 small numbers, and intended to resemble vehicles from  
489 previous generations. Replica 1932 Fords and 1965 Cobras are  
490 perhaps the best example of these cars. These are collector  
491 cars that are primarily used in exhibitions, parades, and for  
492 occasional transportation.

493           As the Nation's stock of original classic cars has  
494 dwindled, the desire by hobbyists to own such historic  
495 vehicles has grown. The National Highway Traffic Safety  
496 Administration has one safety regime for regulating motor  
497 vehicle manufacturers that treats all companies alike,  
498 whether they are produced by the millions of cars or just 5.  
499 This legislation would establish an alternative regime for

500 specialty automakers. It would allow--would hold low  
501 production manufacturers of collector cars to NHTSA equipment  
502 standards; lighting, brakes, tires, for example, while  
503 exempting them from vehicle-based standards. The companies  
504 would register with NHTSA and annually report their  
505 production levels. They would also subject NHTSA to  
506 oversight, and the vehicles would be subject to recalls and  
507 remedies.

508         Unlike their predecessors, the replica vehicles would be  
509 clean cars. They would meet current model year emission  
510 requirements for the U.S. and Environmental Protection  
511 Agency, and California Air Resource Board, including  
512 installation of onboard diagnostic systems. The vehicles  
513 would also be covered by engine emission warranties.

514         Mr. {Terry.} That concludes my statement, and I yield  
515 back my time.

516         Are there any other people seeking--the gentlelady from  
517 Illinois is recognized for 5 minutes.

518         Ms. {Schakowsky.} Thank you, Mr. Chairman.

519         This amendment makes a number of changes to the  
520 introduced version of the Bill. Some improve the text,  
521 others may not. While I do not intend to oppose this  
522 amendment, it shows once again why this legislation should  
523 have gone through regular order. For example, this amendment



524 deletes language requiring recall notifications, at the same  
525 time as including provisions limiting liability. Without a  
526 proper hearing or two, or at least time to explore the issue  
527 with relevant stakeholders and clarify the matter, one could  
528 conclude that if these replica cars are in an accident, the  
529 injured passengers and other motorists could be without  
530 recourse.

531 Another question is why these replica companies have not  
532 tried to use the existing NHTSA and EPA waiver processes.  
533 These existing mechanisms do work. In fact, just this week  
534 NHTSA issued a final rule allowing a regulatory exemption for  
535 certain cars that have been modified for disabled drivers, to  
536 prevent people from being ejected during rollovers. These  
537 replica companies may not get all that they seek in waivers,  
538 but through hearings, we could explore why they have not at  
539 least tried to go that route.

540 This amendment also does not address how this Bill  
541 interacts with state law. Several states placed very  
542 responsible restrictions on replica vehicles. It is unclear  
543 why similar restrictions are not included in the Bill, and  
544 what effect this Bill would have on state protections. For  
545 example, Delaware's law states that these vehicles shall only  
546 be used for participation in club activities, exhibits,  
547 tours, parades, or similar uses. In no event are they to be

548 used for general transportation, or to be--or to drive in  
549 excess of 1,000 miles per year. Oregon has a similar law  
550 limiting use to events like exhibits and parades.

551       There are a number of additional questions that I feel  
552 should be answered before ever considering this Bill. Some  
553 of those include, how many of these vehicles without safety  
554 protections will be on the roads? Each low volume  
555 manufacturer is limited to 1,000 vehicles, but there are no  
556 limits on the number of manufacturers.

557       Another question. Will any of these cars have airbags?  
558 What about seatbelts or other alternative safety systems? If  
559 not, should passengers, including children, be permitted in  
560 these cars? Can NHTSA realistically review all requests in  
561 60 days? If not, should the requests be automatically  
562 approved? What happens if there is an accident? A replica  
563 and a modern car collide. Who bears the liability? Are we  
564 going to allow replica manufacturers to be considered like  
565 the new GM? What additional pollution burden will these cars  
566 add? The Bill exempts them from state inspection and  
567 emission controls that are in place to protect our air.

568       I could never vote to support a Bill with so many  
569 unknowns, especially when the public health, environment, and  
570 driver, passenger and pedestrian safety are on the line.

571       And I yield back.

572 Mr. {Terry.} Anyone else seek recognition on the base  
573 amendment?

574 Mr. {Waxman.} Well, Mr.--

575 Mr. {Terry.} All right.

576 Mr. {Waxman.} Mr. Chairman, I--

577 Mr. {Terry.} Mr. Waxman is recognized.

578 Mr. {Waxman.} I want to be recognized to strike the  
579 last word. And this--

580 Mr. {Terry.} Gentleman strikes the last word. You are  
581 recognized--

582 Mr. {Waxman.} These--

583 Mr. {Terry.} --for 5 minutes.

584 Mr. {Waxman.} These concerns that I want to express are  
585 not directed just to this amendment but to the Bill itself.  
586 I understand that there have been changes in this amendment  
587 that have been worked out with the automobile industry, and  
588 the Bill would only exempt replica cars from important safety  
589 and environmental standards, and no longer exempt non-replica  
590 cars from those standards. Well, that is a good thing.  
591 However, among its other provisions, this amendment deletes  
592 Bill language requiring the replica manufacturers to be  
593 responsible for recalls and other required notifications  
594 regarding defects. It also includes language ensuring that  
595 an original automobile manufacturer will never be liable

596 under any law because that original manufacturer gave the  
597 replica manufacturer the design and/or rights to build its  
598 replica. That is not a good thing.

599         Perhaps more concerning, this amendment does not address  
600 the fundamental problems with the underlying Bill. It does  
601 nothing to ensure that we do not have thousands of unsafe and  
602 polluting cars on our roads. As I mentioned yesterday during  
603 my opening statement, vehicle safety has improved  
604 dramatically over the last 50 years. I would like to show a  
605 video of what happens when a car meeting 1959 vehicle safety  
606 standards collides with a modern 2009 vehicle. Could we, as  
607 we say, run the video?

608         [Video shown.]

609         Mr. {Waxman.} This back-to-the-future video indicates  
610 that in the 1959 car, the windshield is gone. The front end  
611 is totally crumpled, and the driver dies . In the modern  
612 car, the windshield stays in place, the front end absorbs and  
613 diffuses the crash force, and the driver breaks his leg.

614         I will not oppose this amendment, but let us not allow  
615 this huge step backwards for auto safety to occur, and I urge  
616 a no vote on final passage of the Bill.

617         Mr. {Waxman.} I yield back the balance of my time.

618         Mr. {Terry.} Thank you. And while discussion is still  
619 occurring on the base amendment, I know, Fred, you--

620           The {Chairman.} I think Mr. Barrow is going to go next,  
621 then I am going to--

622           Mr. {Terry.} Yes.

623           The {Chairman.} --offer an amendment to the--

624           Mr. {Terry.} Perfect, we are all on the same page.

625           Mr. Barrow, you are recognized for 5 minutes.

626           Mr. {Barrow.} Move to strike the last word, Mr.  
627 Chairman.

628           Mr. {Terry.} You are recognized for 5 minutes.

629           Mr. {Barrow.} Thank you, Mr. Chairman.

630           I have been a cosponsor of this Bill for a couple of  
631 Congresses now because I think it will be a job stimulator,  
632 and because I think it will facilitate the pursuit of  
633 happiness for hundreds of car enthusiasts.

634           {Voice.} Could you speak up, please?

635           Mr. {Barrow.} Sure. Because I think hundreds of car  
636 enthusiasts and tinkers around the country will--are going to  
637 enjoy the benefits of this law.

638           I admit to having mixed emotions when I learned of the  
639 markup earlier this week.

640           {Voice.} Is your mic on?

641           Mr. {Barrow.} Yes, it is. Is this better? Of course,  
642 I think this is a worthy Bill, and I am happy to have a  
643 chance to move forward, but I hope that moving outside the

644 bounds of regular order doesn't spoil our chance to build a  
645 bipartisan coalition that can carry this Bill all the way to  
646 law. I plan to support it in any way case.

647       Today, a car enthusiast can go to a low volume  
648 manufacturer and buy a replica car that is fully assembled  
649 except for the engine. The car enthusiast can then install  
650 an engine himself. These cars are replicas of old cars, so  
651 by definition, they often don't meet modern day safety  
652 standards for crumple zones and bumper safety, but the  
653 consumer is well aware of that, NHTSA allows it, and it  
654 happens every week around the country. This Bill would  
655 simply allow the low volume manufacturer to install the  
656 engine for the consumer.

657       I believe the people who are interested in owning these  
658 cars are already getting their hands-on and driving around as  
659 we speak, and I don't believe that allowing the vehicle  
660 manufacturer to install engines in these bodies is going to  
661 result in a huge increase in unsafe cars on the road, as  
662 someone has suggested. On the other hand, I think it is just  
663 as plausible to having the vehicle manufacturer install the  
664 engine instead of the owner in his home garage, might result  
665 in a net safety increase. In any case, this business is--  
666 this Bill is pro-business, it is a very small market, and the  
667 Bill preserves that principle.

668 I appreciate my colleagues' consideration. I yield  
669 back.

670 Mr. {Terry.} Gentleman yields back. Anyone else on the  
671 base? Seeing none--

672 The {Chairman.} Mr. Chairman.

673 Mr. {Terry.} Yes. The gentleman--

674 The {Chairman.} I have an amendment to the--amendment  
675 in the nature of a substitute.

676 Mr. {Terry.} For--

677 The {Clerk.} Which number is the amendment?

678 The {Chairman.} I don't know which one it is. It is--  
679 it reduces the number from 1,000 to 500.

680 The {Clerk.} Amendment--

681 Mr. {Terry.} The clerk will report.

682 The {Clerk.} Amendment to the amendment in the nature  
683 of a substitute to H.R. 4013, offered by Mr. Upton of  
684 Michigan.

685 [The amendment of Mr. Upton follows:]

686 \*\*\*\*\* INSERT 4 \*\*\*\*\*

|

687           Mr. {Terry.} Gentleman is recognized for 5 minutes to--  
688 on his amendment.

689           The {Chairman.} Yeah, Mr. Chairman, what this amendment  
690 does is, we listened to some of the concerns, this is a niche  
691 market, let us face it. These cars are not used for regular  
692 transportation, ferrying kids to school, going back and forth  
693 to work. Often, they are in parades, they are in auto shows,  
694 they are things of beauty, they are old cars, and it is  
695 remarkable to see these at auto shows across the country.

696           What my amendment to the amendment in the nature of a  
697 substitute does is it reduces from 1,000 vehicles per year to  
698 500, and so it really, really makes it much more of a niche  
699 market than it is perhaps a larger one. It reduces the  
700 number of vehicles. It is pretty straightforward, and I  
701 would like to think that we could accept this amendment, and  
702 then move forward with the amendment in the nature of a  
703 substitute, and would ask my colleagues to support the  
704 reduction from 1,000 vehicles to 500--

705           Mr. {Terry.} Very good.

706           The {Chairman.} --per year. And I yield back.

707           Mr. {Terry.} Full committee chairman yields back.

708           Is there any other further--the gentleman from  
709 California for what purpose?



710 Mr. {Waxman.} Strike the last word.

711 Mr. {Terry.} Gentleman is recognized for 5 minutes.

712 Mr. {Waxman.} I would be in favor of reducing the  
713 number of vehicles that could be subject to the proposed  
714 safety exemption. That is what this amendment would do.  
715 That is a good first step, addressing the issues with this  
716 Bill, but it is only a small step. It makes a terrible Bill  
717 just a little less terrible. We shouldn't be compromising,  
718 in my view, vehicle safety and the environment so lightly,  
719 and with so many questions still lingering.

720 The amendment, by the way, strikes 1,000 and inserts  
721 500.

722 On top of everything, I would like to point out or  
723 reiterate that under this Bill, many crucial air pollution  
724 standards would no longer apply. These include tailpipe  
725 standards for pollution from vehicles that produce smog and  
726 soot. This pollution harms heart and lung functions, leading  
727 to bronchitis, asthma attacks, strokes, heart attacks and  
728 premature death, but it also includes greenhouse gas limits  
729 and fuel economy requirements for vehicles. Moreover, they  
730 include state and local requirements to periodically check  
731 that pollution control equipment is functioning, termed  
732 inspection and maintenance programs. Without these programs,  
733 tune-ups that may be required, pollution control equipment

734 won't necessarily continue to work over the life of the  
735 vehicle.

736 I won't oppose this amendment. It is a step in the  
737 right direction, but it still does not satisfy me.

738 And I would be happy to yield my time to Ms. Schakowsky.

739 Ms. {Schakowsky.} Thank you, Mr. Waxman.

740 I look positively as well on this amendment which lowers  
741 the number of vehicles that may be produced, without meeting  
742 NHTSA vehicle safety standards under the proposed exemption,  
743 and as you said, I believe it is a step in the right  
744 direction because it would put fewer unsafe cars on the road  
745 than the Bill otherwise would, but it--as you said, it would  
746 also not do anything to further reduce the number of vehicles  
747 that can be produced without meeting clean air standards.

748 This is a small fix to just one of the Bill's problems.  
749 Even with the reduction, we will still end up with thousands  
750 of vehicles on the roads that aren't meeting up-to-date  
751 safety standards. This amendment merely diverts attention  
752 from the bigger issue.

753 H.R. 4013 is a flawed Bill that puts the interest of a  
754 class of vehicle owners above the safety of our roads and the  
755 quality of our air.

756 I will--neither will I oppose this amendment, but I will  
757 oppose the Bill.

758           Mr. {Waxman.} Reclaiming my time, I just want to point  
759 out that this amendment sounds so reasonable. You take 1,000  
760 and you say 500. Why are we complaining about 500 vehicles?  
761 Well, that is 500 vehicles per manufacturer, and there is no  
762 limit to the number of manufacturers. We are going to  
763 encourage more manufacturers because they want to get more of  
764 these vehicles out. And that is for the safety standard, but  
765 the emission standards could be--I think it is 5,000 cars per  
766 manufacturer. So there can be a lot more manufacturers for  
767 those cars that will violate the emission standards.

768           I know we want to encourage hobbyists, I know we want to  
769 encourage the ability of people to do what they want to do.  
770 Well, but it is not just them. We are going to have to pay--  
771 they are not necessarily the only ones that are going to get  
772 hurt in a car crash, and we are going to have to pay for the  
773 consequences often of the car crash, even if it is they who  
774 suffer from it, and they are not the--necessarily the only  
775 ones in the car who will be hurt. So I still want to point  
776 that out that the Bill is--underlying Bill is, in my view,  
777 not ready for me to support, and I would urge a no vote on  
778 the Bill.

779           Yield back my time.

780           Mr. {Terry.} Gentleman yields back his time.

781           Any others on the majority side wishing to seek

782 recognition? Seeing none, any on the Democratic side?  
783 Minority? Seeing none, I will call a vote on the Upton  
784 secondary amendment.

785 All those in favor, say aye.

786 All those opposed, say no.

787 In the opinion of the chair, the ayes have it, and the  
788 amendment is adopted.

789 Now, if there is no further secondary amendments, the  
790 vote occurs on the amendment in the nature of a substitute as  
791 amended.

792 All those in favor--

793 {Voice.} Is this final passage?

794 Mr. {Terry.} No, this is just on the substitute.

795 All those in favor shall signify by saying aye.

796 All those opposed, no.

797 Ms. {Schakowsky.} No, and I would like a recorded vote.  
798 I am sorry.

799 Mr. {Terry.} On the substitute? Okay. So in the  
800 opinion of the chair, the ayes have it on the nature of a  
801 substitute amendment.

802 Now, on the Bill as amended, the request has already  
803 been made for a roll call vote so we will just bypass and go  
804 straight to a roll call vote on the Bill as amended.

805 The clerk will call the roll.

806           The {Clerk.}   Mr. Lance.  
807           Mr. {Lance.}   Aye.  
808           The {Clerk.}   Mr. Lance votes aye.  
809           Mrs. Blackburn.  
810           Mrs. {Blackburn.}   Aye.  
811           The {Clerk.}   Mrs. Blackburn votes aye.  
812           Mr. Harper.  
813           Mr. {Harper.}   Aye.  
814           The {Clerk.}   Mr. Harper votes aye.  
815           Mr. Guthrie.  
816           Mr. {Guthrie.}   Aye.  
817           The {Clerk.}   Mr. Guthrie votes aye.  
818           Mr. Olson.  
819           Mr. {Olson.}   Aye.  
820           The {Clerk.}   Mr. Olson votes aye.  
821           Mr. McKinley.  
822           Mr. {McKinley.}   Aye.  
823           The {Clerk.}   Mr. McKinley votes aye.  
824           Mr. Pompeo.   Mr. Kinzinger.  
825           Mr. {Kinzinger.}   Aye.  
826           The {Clerk.}   Mr. Kinzinger votes aye.  
827           Mr. Bilirakis.  
828           Mr. {Bilirakis.}   Aye.  
829           The {Clerk.}   Mr. Bilirakis votes aye.

830 Mr. Johnson.

831 Mr. {Johnson.} Aye.

832 The {Clerk.} Mr. Johnson votes aye.

833 Mr. Long.

834 Mr. {Long.} Aye.

835 The {Clerk.} Mr. Long votes aye.

836 Mr. Barton.

837 Mr. {Barton.} Aye.

838 The {Clerk.} Mr. Barton votes aye.

839 Mr. Upton.

840 The {Chairman.} Aye.

841 The {Clerk.} Mr. Upton votes aye.

842 Ms. Schakowsky.

843 Ms. {Schakowsky.} No.

844 The {Clerk.} Ms. Schakowsky votes no.

845 Mr. Sarbanes.

846 [No response.]

847 The {Clerk.} Mr. McNerney.

848 Mr. {McNerney.} Aye.

849 The {Clerk.} Mr. McNerney votes aye.

850 Mr. Welch.

851 Mr. {Welch.} No.

852 The {Clerk.} Mr. Welch votes no.

853 Mr. Yarmuth.

854 Mr. {Yarmuth.} No.  
855 The {Clerk.} Mr. Yarmuth votes no.  
856 Mr. Dingell.  
857 Mr. {Dingell.} Mr. Dingell votes no.  
858 The {Clerk.} Mr. Dingell votes no.  
859 Mr. Rush.  
860 [No response.]  
861 The {Clerk.} Mr. Matheson.  
862 Mr. {Matheson.} No.  
863 The {Clerk.} Mr. Matheson votes no.  
864 Mr. Barrow.  
865 Mr. {Barrow.} Aye.  
866 The {Clerk.} Mr. Barrow votes aye.  
867 Mrs. Christensen.  
868 [No response.]  
869 The {Clerk.} Mr. Waxman.  
870 Mr. {Waxman.} No.  
871 The {Clerk.} Mr. Waxman votes no.  
872 Chairman Terry.  
873 Mr. {Terry.} Yes.  
874 The {Clerk.} Chairman Terry votes aye.  
875 Mr. Chairman, on that vote there were 15 ayes and 6  
876 nays.

|

877 H.R. 4450

878 Mr. {Terry.} The chair calls up H.R. 4450, and asks the  
879 clerk to report.

880 The {Clerk.} H. R. 4450, to extend the Travel Promotion  
881 Act of 2009, and for other purposes.

882 [H.R. 4450 follows:]

883 \*\*\*\*\* INSERT 5 \*\*\*\*\*



|

884           Mr. {Terry.} Without objection, the first reading of  
885 the Bill is dispensed with, and the bill will be open for  
886 amendment at any point. So ordered.

887           Are there any bipartisan amendments to the Bill?

888           Mr. {Bilirakis.} Mr. Chairman, I have an amendment at  
889 the desk.

890           Mr. {Terry.} The gentleman--is it a bipartisan  
891 amendment?

892           Mr. {Bilirakis.} It is a bipartisan amendment.

893           Mr. {Terry.} Therefore, the clerk will report the  
894 amendment.

895           The {Clerk.} Amendment to H. R. 4450, offered by Mr.  
896 Bilirakis of Florida.

897           [The amendment of Mr. Bilirakis follows:]

898           \*\*\*\*\* INSERT 6 \*\*\*\*\*

|

899 Mr. {Bilirakis.} Thank you.

900 Mr. {Terry.} The reading will be dispensed with--

901 Mr. {Bilirakis.} Mr. Chairman, on behalf of--

902 Mr. {Terry.} --and the amendment--

903 Mr. {Bilirakis.} Go ahead and review.

904 Mr. {Terry.} --handed out. The gentleman from Florida  
905 is recognized for 5 minutes.

906 Mr. {Bilirakis.} Thank you, Mr. Chairman.

907 Mr. Chairman, on behalf of Mr. Welch and myself, I have  
908 an amendment at the desk. This amendment strikes from  
909 current law the authority for Brand USA to impose an annual  
910 fee on U.S. members of the international travel and tourism  
911 industry. When the law was initially drafted, Brand USA was  
912 given the legal authority to assess fees on industry to  
913 accumulate up to \$20 million. However, since Brand USA's  
914 inception, stakeholders in the travel and tourism community  
915 have recognized the value of Brand USA, and have voluntarily  
916 provided overwhelming support; nearly \$130 million in fiscal  
917 year 2012. It is outstanding. That just shows you how  
918 successful the program has been.

919 This assessment authority has never been used. Both the  
920 Brand USA and the private sector have indicated that they  
921 have confidence that private support will continue for Brand

922 USA's mission, and that legal authority to assess fees on  
923 industry is unnecessary. To maintain the voluntary private  
924 sector contribution system that supports Brand USA, I urge  
925 support of this amendment.

926 And I yield back the balance of my time. Thank you.

927 Mr. {Terry.} The gentleman yields back.

928 Anyone else wish to time? Gentlelady from Illinois is  
929 recognized.

930 Ms. {Schakowsky.} While I will not oppose the  
931 Bilirakis-Welch amendment, I think we should recognize the  
932 possible impacts of eliminating Brand USA's ability to assess  
933 the industry.

934 As I said yesterday, I recognize the huge importance of  
935 Brand USA both nationally and to my own district, which  
936 depends on the jobs and revenue that visitors bring into the  
937 greater Chicago area. Travel and tourism inject billions of  
938 dollars into the American economy every year, and Brand USA  
939 plays a vital role in encouraging more foreign visitors to  
940 come to the United States. That is why it is so important to  
941 protect the long-term viability of Brand USA.

942 Brand USA has done well to raise needed private sector  
943 contributions to sustain its efforts. However, as the  
944 Department of Homeland Security's needs increase, it seems  
945 possible that federal funding could be reduced in the future,

946 requiring additional industry support. Eliminating the  
947 assessment means that Brand USA could one day lack the  
948 resources needed to meet its goals, with no mechanism in  
949 place to raise needed capital. The U.S. travel and touring  
950 industry and our entire national economy needs a strong Brand  
951 USA, and removing the assessment authority could have  
952 negative consequences down the line.

953 And I yield back.

954 Mr. {Terry.} Anyone else seek recognition on the  
955 Bilirakis amendment?

956 Gentleman from Vermont is recognized.

957 Mr. {Welch.} Well, this is a good Bill for all our  
958 districts. Mr. Bilirakis, I really appreciate taking the  
959 lead on this. Florida; huge tourism industry. Vermont; a  
960 much smaller state, but the tourism industry in Vermont is  
961 incredibly important to Vermont. It is like 20,000 jobs. A  
962 lot of kids get their first jobs in the tourism industry,  
963 gets that foothold in the labor force. So I thank Mr.  
964 Bilirakis for his really good work on this, and in support of  
965 this amendment.

966 I yield back.

967 Mr. {Terry.} Gentleman yields back.

968 Any further--anyone seek recognition?

969 Seeing none, we will--all those in favor of the

970 Bilirakis amendment, say aye.

971 All those opposed, say no.

972 In the opinion of the chair, it is a unanimous ayes have  
973 it and the amendment is adopted.

974 Any further amendments? Gentlelady from Illinois.

975 Ms. {Schakowsky.} Yes, Mr. Chairman, I have a--an  
976 amendment at the desk.

977 Mr. {Terry.} The clerk will report the amendment.

978 The {Clerk.} Amendment to H. R. 4450, offered by Ms.  
979 Schakowsky of Illinois.

980 [The amendment of Ms. Schakowsky follows:]

981 \*\*\*\*\* INSERT 7 \*\*\*\*\*

|

982 Mr. {Terry.} The gentlelady dispense with--

983 Ms. {Schakowsky.} Yes.

984 Mr. {Terry.} --the reading, and hand out the amendment.

985 And the gentlelady is recognized for 5 minutes on her

986 amendment.

987 Ms. {Schakowsky.} I would again like to thank Mr.

988 Bilirakis and Mr. Welch, the sponsors of H. R. 4450, for

989 their continued commitment to the promotion of international

990 tourism. I strongly support the mission of Brand USA which

991 creates jobs and revenue for communities all over the

992 country. This Bill already makes several positive changes to

993 the program, and I am encouraged by those improvements.

994 I believe that there are additional ways we can help

995 ensure the success of Brand USA long into the future.

996 My amendment would make the program even more

997 accountable and transparent moving forward. The amendment

998 has several objectives. It includes several accountability

999 recommendations, mostly from a government accountability

1000 office, GAO, report from 2013 on Brand USA. The amendment

1001 would direct the Department of Commerce to establish

1002 specific, publicly-available time frames and conditions for

1003 revisions, and resolution of disagreements related to its in-

1004 kind contribution policy. Having a set policy will not only

1005 promote greater transparency, it would also, in the words of  
1006 GAO, ``enable productive interactions and facilitate  
1007 collaboration.''

1008         The amendment would also require Brand USA to report  
1009 annually to the Commerce Department and the public with  
1010 explanations of a single expenditure over \$500,000, instead  
1011 of the \$5 million limit in current law.

1012         And lastly, the amendment would expand upon the Bill  
1013 sponsors' efforts to move effectively--to more effectively  
1014 monitor the performance of Brand USA.

1015         GAO has suggested that Brand USA be directed to develop  
1016 a plan that specifies time frames, methodologies and data  
1017 sources for measuring its performance, and the campaign's  
1018 impact. By requiring those criteria explicitly, and by  
1019 adding specifics on certain basic items it should measure,  
1020 this amendment would give Brand USA more direction on the  
1021 type of information it should collect, and ensure that its  
1022 metrics are effective at determining the success of the  
1023 program. Brand USA's continued long-term success is  
1024 essential to communities that, like my district, depend on  
1025 the economic benefits of travel and tourism. Brand USA is  
1026 off to a good start, and I applaud everyone involved for  
1027 their ongoing efforts to encourage people from all over the  
1028 world to enjoy everything America has to offer, and I hope

1029 that with this Bill and with my colleagues' support, this  
1030 amendment--and this amendment, Brand USA will continue to be  
1031 a responsible and successful force in the future.

1032 And I yield back.

1033 Mr. {Terry.} Gentlelady yields back.

1034 Anyone else seeking attention? Gentleman from Florida,  
1035 for what purpose?

1036 Mr. {Bilirakis.} Thank you, Mr. Chairman.

1037 I will accept the amendment--

1038 Mr. {Terry.} The gentleman is recognized.

1039 Mr. {Bilirakis.} --with the--the revised amendment with  
1040 the stricken language with regard to the adjustment of the  
1041 in-kind ratio. Otherwise, I will accept the--this particular  
1042 amendment, and I will support it.

1043 Mr. {Terry.} All right, gentleman yields back.

1044 The question now occurs on the amendment.

1045 All those in favor of the Schakowsky amendment, say aye.

1046 All those opposed, nay.

1047 Ms. {Schakowsky.} I would like a roll call vote.

1048 Mr. {Terry.} Really?

1049 Ms. {Schakowsky.} No, not on the--sorry.

1050 Mr. {Terry.} Okay. The--in the opinion of the chair,  
1051 the ayes have it. The amendment is agreed to.

1052 Now, any other amendments? Seeing no requests for



1053 amendments, the question now occurs on forwarding H.R. 4450  
1054 to the full committee as amended.

1055 All those in favor, say aye.

1056 All opposed, say no.

1057 In the opinion of the chair--

1058 Ms. {Schakowsky.} On that--

1059 Mr. {Terry.} --the ayes--

1060 Ms. {Schakowsky.} On that, I would like a--see, I have  
1061 had two cups of coffee. Maybe that it is too much. So I  
1062 would like a roll call vote on the final--on our sending it  
1063 to the full committee.

1064 Mr. {Terry.} Very good. There is a request for a  
1065 recorded vote. The clerk will call the roll.

1066 The {Clerk.} Mr. Lance.

1067 Mr. {Lance.} Aye.

1068 The {Clerk.} Mr. Lance votes aye.

1069 Mrs. Blackburn.

1070 Mrs. {Blackburn.} Aye.

1071 The {Clerk.} Mrs. Blackburn votes aye.

1072 Mr. Harper.

1073 Mr. {Harper.} Aye.

1074 The {Clerk.} Mr. Harper votes aye.

1075 Mr. Guthrie.

1076 Mr. {Guthrie.} Aye.

1077           The {Clerk.}   Mr. Guthrie votes aye.  
1078           Mr. Olson.  
1079           Mr. {Olson.}   Aye.  
1080           The {Clerk.}   Mr. Olson votes aye.  
1081           Mr. McKinley.  
1082           Mr. {McKinley.}   Aye.  
1083           The {Clerk.}   Mr. McKinley votes aye.  
1084           Mr. Pompeo.  
1085           [No response.]  
1086           The {Clerk.}   Mr. Kinzinger.  
1087           Mr. {Kinzinger.}   Aye.  
1088           The {Clerk.}   Mr. Kinzinger votes aye.  
1089           Mr. Bilirakis.  
1090           Mr. {Bilirakis.}   Aye.  
1091           The {Clerk.}   Mr. Bilirakis votes aye.  
1092           Mr. Johnson.  
1093           Mr. {Johnson.}   Aye.  
1094           The {Clerk.}   Mr. Johnson votes aye.  
1095           Mr. Long.  
1096           Mr. {Long.}   Aye.  
1097           The {Clerk.}   Mr. Long votes aye.  
1098           Mr. Barton.  
1099           Mr. {Barton.}   Aye.  
1100           The {Clerk.}   Mr. Barton votes aye.

1101 Mr. Upton.  
1102 The {Chairman.} Aye.  
1103 The {Clerk.} Mr. Upton votes aye.  
1104 Ms. Schakowsky.  
1105 Ms. {Schakowsky.} Aye.  
1106 The {Clerk.} Ms. Schakowsky votes aye.  
1107 Mr. Sarbanes. Mr. McNerney.  
1108 Mr. {McNerney.} Aye.  
1109 The {Clerk.} Mr. McNerney votes aye.  
1110 Mr. Welch.  
1111 Mr. {Welch.} Aye.  
1112 The {Clerk.} Mr. Welch votes aye.  
1113 Mr. Yarmuth.  
1114 Mr. {Yarmuth.} Aye.  
1115 The {Clerk.} Mr. Yarmuth votes aye.  
1116 Mr. Dingell.  
1117 Mr. {Dingell.} Votes aye.  
1118 The {Clerk.} Mr. Dingell votes aye.  
1119 Mr. Rush.  
1120 Mr. {Rush.} Aye.  
1121 The {Clerk.} Mr. Rush votes aye.  
1122 Mr. Matheson.  
1123 Mr. {Matheson.} Aye.  
1124 The {Clerk.} Mr. Matheson votes aye.

1125 Mr. Barrow.

1126 Mr. {Barrow.} Votes aye.

1127 The {Clerk.} Mr. Barrow votes aye.

1128 Mrs. Christensen.

1129 [No response.]

1130 The {Clerk.} Mr. Waxman.

1131 Mr. {Waxman.} Aye.

1132 The {Clerk.} Mr. Waxman votes aye.

1133 Chairman Terry.

1134 Mr. {Terry.} Aye.

1135 The {Clerk.} Chairman Terry votes aye.

1136 Mr. {Terry.} Clerk will report the results.

1137 The {Clerk.} Mr. Chairman, on that vote, there were 22

1138 ayes and zero nays.

1139 Mr. {Terry.} Well, that is a great vote, and the ayes

1140 have it and the Bill is agreed to. And without objection,

1141 staff is authorized to make technical and conforming changes

1142 to the legislation approved by the subcommittee today. So

1143 hearing no objections, so ordered. And also without

1144 objection, no further business before this subcommittee

1145 today, the subcommittee stands adjourned.

1146 [Whereupon, at 11:01 a.m., the subcommittee was

1147 adjourned.]