

Union Calendar No. 266

107TH CONGRESS
2^D SESSION

H. R. 3833

[Report No. 107-449]

To facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2002

Mr. SHIMKUS (for himself, Mr. MARKEY, Mr. UPTON, Mr. TERRY, Mr. PICKERING, Mr. BARTON of Texas, Mr. TOWNS, and Mr. TAUZIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

MAY 8, 2002

Additional sponsors: Mr. STEARNS, Mrs. JONES of Ohio, Mr. DEAL of Georgia, Mrs. BONO, Mr. SULLIVAN, Mr. BROWN of Ohio, Mr. GILLMOR, Mr. WALSH, Mr. OSBORNE, Mr. SCHIFF, Mrs. WILSON of New Mexico, Mr. ROGERS of Michigan, Mr. GREENWOOD, Mr. SKEEN, Ms. BROWN of Florida, Ms. HART, Mr. FOSSELLA, Mr. RUSH, Mr. GORDON, Mr. FLETCHER, Mr. GREEN of Wisconsin, Mr. MCGOVERN, Mr. DINGELL, Mr. VITTER, Mr. FOLEY, Mr. BISHOP, Mr. SHOWS, Mr. WYNN, Mr. WELLER, Mr. POMEROY, Ms. CARSON of Indiana, Mr. ISSA, and Mr. MCINTYRE

MAY 8, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 4, 2002]

A BILL

To facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

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 “Dot Kids Implementa-*
5 *tion and Efficiency Act of 2002”.*

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) *FINDINGS.—The Congress finds that—*

8 (1) *the World Wide Web presents a stimulating*
9 *and entertaining opportunity for children to learn,*
10 *grow, and develop educationally and intellectually;*

11 (2) *Internet technology also makes available an*
12 *extensive amount of information that is harmful to*
13 *children, as studies indicate that a significant portion*
14 *of all material available on the Internet is related to*
15 *pornography;*

1 (3) *young children, when trying to use the World*
2 *Wide Web for positive purposes, are often presented—*
3 *either mistakenly or intentionally—with material*
4 *that is inappropriate for their age, which can be ex-*
5 *tremely frustrating for children, parents, and edu-*
6 *cators;*

7 (4) *exposure of children to material that is inap-*
8 *propriate for them, including pornography, can dis-*
9 *tort the education and development of the Nation’s*
10 *youth and represents a serious harm to American*
11 *families that can lead to a host of other problems for*
12 *children, including inappropriate use of chat rooms,*
13 *physical molestation, harassment, and legal and fi-*
14 *nancial difficulties;*

15 (5) *young boys and girls, older teens, troubled*
16 *youth, frequent Internet users, chat room partici-*
17 *pants, online risk takers, and those who communicate*
18 *online with strangers are at greater risk for receiving*
19 *unwanted sexual solicitation on the Internet;*

20 (6) *studies have shown that 19 percent of youth*
21 *(ages 10 to 17) who used the Internet regularly were*
22 *the targets of unwanted sexual solicitation, but less*
23 *than 10 percent of the solicitations were reported to*
24 *the police;*

1 (7) children who come across illegal content
2 should report it to the congressionally authorized
3 *CyberTipline*, an online mechanism developed by the
4 National Center for Missing and Exploited Children,
5 for citizens to report sexual crimes against children;

6 (8) the *CyberTipline* has received more than
7 64,400 reports, including reports of child pornog-
8 raphy, online enticement for sexual acts, child moles-
9 tation (outside the family), and child prostitution;

10 (9) although the computer software and hard-
11 ware industries, and other related industries, have de-
12 veloped innovative ways to help parents and edu-
13 cators restrict material that is harmful to minors
14 through parental control protections and self-regula-
15 tion, to date such efforts have not provided a national
16 solution to the problem of minors accessing harmful
17 material on the World Wide Web;

18 (10) the creation of a “green-light” area within
19 the United States country code Internet domain, that
20 will contain only content that is appropriate for chil-
21 dren under the age of 13, is analogous to the creation
22 of a children’s section within a library and will pro-
23 mote the positive experiences of children and families
24 in the United States; and

1 (11) while custody, care, and nurture of the child
2 reside first with the parent, the protection of the phys-
3 ical and psychological well-being of minors by shield-
4 ing them from material that is harmful to them is a
5 compelling governmental interest.

6 (b) *PURPOSES.*—The purposes of this Act are—

7 (1) to facilitate the creation of a second-level do-
8 main within the United States country code domain
9 for the location of material that is suitable for minors
10 and not harmful to minors; and

11 (2) to ensure that the National Telecommuni-
12 cations and Information Administration oversees the
13 creation of such a second-level domain and ensures
14 the effective and efficient establishment and operation
15 of the new domain.

16 **SEC. 3. NTIA AUTHORITY.**

17 Section 103(b)(3) of the National Telecommunications
18 and Information Administration Organization Act (47
19 U.S.C. 902(b)(3)) is amended—

20 (1) in subparagraph (A), by striking “and” at
21 the end;

22 (2) in subparagraph (B), by striking the period
23 at the end and inserting “; and”; and

24 (3) by adding at the end the following new sub-
25 paragraph:

1 “(C) shall assign to the NTIA responsibility
2 for providing for the establishment, and over-
3 seeing operation, of a second-level Internet do-
4 main within the United States country code do-
5 main in accordance with section 157.”.

6 **SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DO-**
7 **MAIN.**

8 *The National Telecommunications and Information*
9 *Administration Organization Act (47 U.S.C. 901 et seq.)*
10 *is amended in part C by adding at the end the following*
11 *new section:*

12 **“SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DO-**
13 **MAIN.**

14 “(a) *RESPONSIBILITIES.*—*The NTIA shall require the*
15 *registry selected to operate and maintain the United States*
16 *country code Internet domain to establish, operate, and*
17 *maintain a second-level domain within the United States*
18 *country code domain that provides access only to material*
19 *that is suitable for minors and not harmful to minors (in*
20 *this section referred to as the ‘new domain’).*

21 “(b) *CONDITIONS OF CONTRACT RENEWAL.*—*The*
22 *NTIA may not renew any contract to operate and maintain*
23 *the domain with the initial registry, or enter into or renew*
24 *any such contract with any successor registry, unless such*
25 *registry enters into an agreement with the NTIA, during*

1 *the 90-day period beginning upon the date of the enactment*
2 *of the Dot Kids Implementation and Efficiency Act of 2002*
3 *in the case of the initial registry or during the 90-day pe-*
4 *riod after selection in the case of any successor registry, as*
5 *applicable, which provides for the registry to carry out, and*
6 *the new domain operates pursuant to, the following require-*
7 *ments:*

8 “(1) *Written content standards for the new do-*
9 *main, except that the NTIA shall not have any au-*
10 *thority to establish such standards.*

11 “(2) *Written agreements with each registrar for*
12 *the new domain that ensure use of the new domain*
13 *is in accordance with the standards and requirements*
14 *of the registry.*

15 “(3) *Written agreements with registrars, which*
16 *shall require registrars to enter into written agree-*
17 *ments with registrants, to use the new domain in ac-*
18 *cordance with the standards and requirements of the*
19 *registry.*

20 “(4) *Rules and procedures for enforcement and*
21 *oversight that minimize the possibility that the new*
22 *domain provides access to content that is not in ac-*
23 *cordance with the standards and requirements of the*
24 *registry.*

1 “(5) A process for removing from the new do-
2 main any content that is not in accordance with the
3 standards and requirements of the registry.

4 “(6) A process to provide registrants to the new
5 domain with an opportunity for a prompt, expedi-
6 tious, and impartial dispute resolution process re-
7 garding any material of the registrant excluded from
8 the new domain.

9 “(7) Continuous and uninterrupted service for
10 the new domain during any transition to a new reg-
11 istry selected to operate and maintain the United
12 States country code domain.

13 “(8) Procedures and mechanisms to promote the
14 accuracy of contact information submitted by reg-
15 istrants and retained by registrars in the new do-
16 main.

17 “(9) Operationality of the new domain not later
18 than one year after the date of the enactment of the
19 Dot Kids Implementation and Efficiency Act of 2002.

20 “(10) Written agreements with registrars, which
21 shall require registrars to enter into written agree-
22 ments with registrants, to prohibit two-way and
23 multiuser interactive services in the new domain, un-
24 less the registrant certifies to the registrar that such
25 service will be offered in compliance with the content

1 standards established pursuant to paragraph (1) and
2 does not compromise the safety or security of minors.

3 “(11) Written agreements with registrars, which
4 shall require registrars to enter into written agree-
5 ments with registrants, to prohibit hyperlinks in the
6 new domain that take new domain users outside of
7 the new domain.

8 “(12) Any other action that the NTIA considers
9 necessary to establish, operate, or maintain the new
10 domain in accordance with the purposes of this sec-
11 tion.

12 “(c) *TREATMENT OF REGISTRY AND OTHER ENTI-*
13 *TIES.—*

14 “(1) *IN GENERAL.—*Only to the extent that such
15 entities carry out functions under this section, the fol-
16 lowing entities are deemed to be interactive computer
17 services for purposes of section 230(c) of the Commu-
18 nications Act of 1934 (47 U.S.C. 230(c)):

19 “(A) The registry that operates and main-
20 tains the new domain.

21 “(B) Any entity that contracts with such
22 registry to carry out functions to ensure that
23 content accessed through the new domain com-
24 plies with the limitations applicable to the new
25 domain.

1 “(C) Any registrar for the registry of the
2 new domain that is operating in compliance
3 with its agreement with the registry.

4 “(2) SAVINGS PROVISION.—Nothing in para-
5 graph (1) shall be construed to affect the applicability
6 of any other provision of title II of the Communica-
7 tions Act of 1934 to the entities covered by subpara-
8 graph (A), (B), or (C) of paragraph (1).

9 “(d) EDUCATION.—The NTIA shall carry out a pro-
10 gram to publicize the availability of the new domain and
11 to educate the parents of minors regarding the process for
12 utilizing the new domain in combination and coordination
13 with hardware and software technologies that provide for
14 filtering or blocking. The program under this subsection
15 shall be commenced not later than 30 days after the date
16 that the new domain first becomes operational and acces-
17 sible by the public.

18 “(e) COORDINATION WITH FEDERAL GOVERNMENT.—
19 The registry selected to operate and maintain the new do-
20 main shall—

21 “(1) consult with appropriate agencies of the
22 Federal Government regarding procedures and actions
23 to prevent minors and families who use the new do-
24 main from being targeted by adults and other chil-

1 *dren for predatory behavior, exploitation, or illegal*
2 *actions; and*

3 *“(2) establish such procedures and take such ac-*
4 *tions as may be necessary to prevent such targeting.*

5 *The consultations, procedures, and actions required under*
6 *this subsection shall be commenced not later than 30 days*
7 *after the date that the new domain first becomes operational*
8 *and accessible by the public.*

9 *“(f) COMPLIANCE REPORT.—The registry shall pre-*
10 *pare, on an annual basis, a report on the registry’s moni-*
11 *toring and enforcement procedures. The registry shall sub-*
12 *mit each such report, setting forth the results of the review*
13 *of its monitoring and enforcement procedures, to the Com-*
14 *mittee on Energy and Commerce of the House of Represent-*
15 *atives and the Committee on Commerce, Science, and*
16 *Transportation of the Senate.*

17 *“(g) SELECTION OF REGISTRY.—*

18 *“(1) WITHDRAWAL OF REGISTRY.—*

19 *“(A) IN GENERAL.—Upon a good faith*
20 *showing by the registry of the new domain to the*
21 *NTIA of extreme financial hardship in the oper-*
22 *ation of the new domain, the registry may elect*
23 *to relinquish the right to operate and maintain*
24 *the new domain. If the registry elects to relin-*
25 *quish such right, the NTIA shall select a subcon-*

1 *tractor to operate and maintain the new domain*
2 *under the competitive bidding process established*
3 *pursuant to paragraph (2). The subcontractor*
4 *shall have all of the rights and duties specified*
5 *under this Act, except that such duties shall not*
6 *include the technical maintenance of the new do-*
7 *main.*

8 *“(B) EXTREME FINANCIAL HARDSHIP.—For*
9 *purposes of this paragraph, the term ‘extreme fi-*
10 *nancial hardship’ means that the costs of oper-*
11 *ating and maintaining the new domain exceed*
12 *the revenues generated from registrants by more*
13 *than 25 percent for a period of more than 6 con-*
14 *secutive quarters, following the first year of oper-*
15 *ation.*

16 *“(2) COMPETITIVE BID SELECTION PROCESS.—*
17 *The NTIA shall establish a process for soliciting ap-*
18 *plications and choosing a subcontractor to operate*
19 *and maintain the new domain pursuant to para-*
20 *graph (1), which process shall comply with the fol-*
21 *lowing requirements:*

22 *“(A) TIMING.—The selection process shall*
23 *commence and complete not later than 120 days*
24 *after the registry elects to relinquish the new do-*
25 *main for extreme financial hardship.*

1 “(B) NOTICE.—The selection process shall
2 provide adequate notice to prospective applicants
3 of—

4 “(i) the opportunity to submit such an
5 application; and

6 “(ii) the criteria for selection under
7 subparagraph (C).

8 “(C) CRITERIA.—The selection shall be
9 made pursuant to written, objective criteria de-
10 signed to ensure—

11 “(i) that the new domain is operated
12 and maintained in accordance with the re-
13 quirements under subsection (b); and

14 “(ii) that the subcontractor selected to
15 operate and maintain the new domain is
16 the applicant most capable and qualified to
17 do so.

18 “(D) REVIEW.—Not more than 60 days
19 after the conclusion of the period established for
20 submission of applications, the NTIA shall—

21 “(i) review and apply the selection cri-
22 teria established under subparagraph (C) to
23 each application submitted; and

24 “(ii) based upon such criteria and sub-
25 ject to submission of an application meeting

1 *such criteria, select an application and*
2 *award to the applicant a subcontract for the*
3 *operation and maintenance of the new do-*
4 *main.*

5 “(E) *FAILURE TO FIND SUBCONTRACTOR.—*
6 *If the NTIA fails to find a suitable subcontractor*
7 *pursuant to the process under this paragraph,*
8 *the NTIA shall permit the registry to cease oper-*
9 *ation of the new domain.*

10 “(h) *SUSPENSION OF NEW DOMAIN.—If the NTIA*
11 *finds, pursuant to its own review or upon a good faith peti-*
12 *tion by the registry, that the new domain is not serving*
13 *its intended purpose, the NTIA shall instruct the registry*
14 *to suspend operation of the new domain until such time*
15 *as the NTIA determines that the new domain can be oper-*
16 *ated as intended.*

17 “(i) *DEFINITIONS.—For purposes of this section, the*
18 *following definitions shall apply:*

19 “(1) *HARMFUL TO MINORS.—The term ‘harmful*
20 *to minors’ means, with respect to material, that—*

21 “(A) *the average person, applying contem-*
22 *porary community standards, would find, taking*
23 *the material as a whole and with respect to mi-*
24 *nors, that it is designed to appeal to, or is de-*
25 *signed to pander to, the prurient interest;*

1 “(B) *the material depicts, describes, or rep-*
2 *resents, in a manner patently offensive with re-*
3 *spect to minors, an actual or simulated sexual*
4 *act or sexual contact, an actual or simulated*
5 *normal or perverted sexual act, or a lewd exhi-*
6 *bition of the genitals or post-pubescent female*
7 *breast; and*

8 “(C) *taken as a whole, the material lacks se-*
9 *rious, literary, artistic, political, or scientific*
10 *value for minors.*

11 “(2) *MINOR.—the term ‘minor’ means any per-*
12 *son under 13 years of age.*

13 “(3) *SUITABLE FOR MINORS.—The term ‘suitable*
14 *for minors’ means, with respect to material, that it—*

15 “(A) *is not psychologically or intellectually*
16 *inappropriate for minors; and*

17 “(B) *serves—*

18 “(i) *the educational, informational, in-*
19 *tellectual, or cognitive needs of minors; or*

20 “(ii) *the social, emotional, or enter-*
21 *tainment needs of minors.”.*

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A BILL

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