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S. 2537

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 SENATE OF THE UNITED STATES

MAY 21, 2002

Mr. DORGAN (for himself and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Dot Kids Implementa-
3 tion and Efficiency Act of 2002”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—The Congress finds that—

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

9 (2) Internet technology also makes available an
10 extensive amount of information that is harmful to
11 children, as studies indicate that a significant por-
12 tion of all material available on the Internet is re-
13 lated to pornography;

14 (3) young children, when trying to use the
15 World Wide Web for positive purposes, are often
16 presented—either mistakenly or intentionally—with
17 material that is inappropriate for their age, which
18 can be extremely frustrating for children, parents,
19 and educators;

20 (4) exposure of children to material that is in-
21 appropriate for them, including pornography, can
22 distort the education and development of the Na-
23 tion’s youth and represents a serious harm to Amer-
24 ican families that can lead to a host of other prob-
25 lems for children, including inappropriate use of

1 chat rooms, physical molestation, harassment, and
2 legal and financial difficulties;

3 (5) young boys and girls, older teens, troubled
4 youth, frequent Internet users, chat room partici-
5 pants, online risk takers, and those who commu-
6 nicate online with strangers are at greater risk for
7 receiving unwanted sexual solicitation on the Inter-
8 net;

9 (6) studies have shown that 19 percent of youth
10 (ages 10 to 17) who used the Internet regularly were
11 the targets of unwanted sexual solicitation, but less
12 than 10 percent of the solicitations were reported to
13 the police;

14 (7) children who come across illegal content
15 should report it to the congressionally authorized
16 CyberTipline, an online mechanism developed by the
17 National Center for Missing and Exploited Children,
18 for citizens to report sexual crimes against children;

19 (8) the CyberTipline has received more than
20 64,400 reports, including reports of child pornog-
21 raphy, online enticement for sexual acts, child moles-
22 tation (outside the family), and child prostitution;

23 (9) although the computer software and hard-
24 ware industries, and other related industries, have
25 developed innovative ways to help parents and edu-

1 cators restrict material that is harmful to minors
2 through parental control protections and self-regula-
3 tion, to date such efforts have not provided a na-
4 tional solution to the problem of minors accessing
5 harmful material on the World Wide Web;

6 (10) the creation of a “green-light” area within
7 the United States country code Internet domain,
8 that will contain only content that is appropriate for
9 children under the age of 13, is analogous to the
10 creation of a children’s section within a library and
11 will promote the positive experiences of children and
12 families in the United States; and

13 (11) while custody, care, and nurture of the
14 child reside first with the parent, the protection of
15 the physical and psychological well-being of minors
16 by shielding them from material that is harmful to
17 them is a compelling governmental interest.

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

19 (1) to facilitate the creation of a second-level
20 domain within the United States country code Inter-
21 net domain for the location of material that is suit-
22 able for minors and not harmful to minors; and

23 (2) to ensure that the National Telecommuni-
24 cations and Information Administration oversees the
25 creation of such a second-level domain and ensures

1 the effective and efficient establishment and oper-
2 ation of the new domain.

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

4 Section 103(b)(3) of the National Telecommuni-
5 cations and Information Administration Organization Act
6 (47 U.S.C. 902(b)(3)) is amended—

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

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

11 (3) by adding at the end the following new sub-
12 paragraph:

13 “(C) shall assign to the NTIA responsi-
14 bility for providing for the establishment, and
15 overseeing operation, of a second-level Internet
16 domain within the United States country code
17 domain in accordance with section 157.”.

18 **SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DO-**
19 **MAIN.**

20 The National Telecommunications and Information
21 Administration Organization Act (47 U.S.C. 901 et seq.)
22 is amended in part C by adding at the end the following
23 new section:

1 **“SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DO-**
2 **MAIN.**

3 “(a) RESPONSIBILITIES.—The NTIA shall require
4 the registry selected to operate and maintain the United
5 States country code Internet domain to establish, operate,
6 and maintain a second-level domain within the United
7 States country code domain that provides access only to
8 material that is suitable for minors and not harmful to
9 minors (in this section referred to as the ‘new domain’).

10 “(b) CONDITIONS OF CONTRACT RENEWAL.—The
11 NTIA may not renew any contract to operate and main-
12 tain the domain with the initial registry, or enter into or
13 renew any such contract with any successor registry, un-
14 less such registry enters into an agreement with the
15 NTIA, during the 90-day period beginning upon the date
16 of the enactment of the Dot Kids Implementation and Ef-
17 ficiency Act of 2002 in the case of the initial registry or
18 during the 90-day period after selection in the case of any
19 successor registry, as applicable, which provides for the
20 registry to carry out, and the new domain operates pursu-
21 ant to, the following requirements:

22 “(1) Written content standards for the new do-
23 main, except that the NTIA shall not have any au-
24 thority to establish such standards.

25 “(2) Written agreements with each registrar for
26 the new domain that require that use of the new do-

1 main is in accordance with the standards and re-
2 quirements of the registry.

3 “(3) Written agreements with registrars, which
4 shall require registrars to enter into written agree-
5 ments with registrants, to use the new domain in ac-
6 cordance with the standards and requirements of the
7 registry.

8 “(4) Rules and procedures for enforcement and
9 oversight that minimize the possibility that the new
10 domain provides access to content that is not in ac-
11 cordance with the standards and requirements of the
12 registry.

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

16 “(6) A process to provide registrants to the new
17 domain with an opportunity for a prompt, expedi-
18 tious, and impartial dispute resolution process re-
19 garding any material of the registrant excluded from
20 the new domain.

21 “(7) Continuous and uninterrupted service for
22 the new domain during any transition to a new reg-
23 istry selected to operate and maintain new domain
24 or the United States country code domain.

1 “(8) Procedures and mechanisms to promote
2 the accuracy of contact information submitted by
3 registrants and retained by registrars in the new do-
4 main.

5 “(9) Operationality of the new domain not later
6 than one year after the date of the enactment of the
7 Dot Kids Implementation and Efficiency Act of
8 2002.

9 “(10) Written agreements with registrars,
10 which shall require registrars to enter into written
11 agreements with registrants, to prohibit two-way and
12 multiuser interactive services in the new domain, un-
13 less the registrant certifies to the registrar that such
14 service will be offered in compliance with the content
15 standards established pursuant to paragraph (1) and
16 is specifically constructed and operated to protect
17 minors from harm.

18 “(11) Written agreements with registrars,
19 which shall require registrars to enter into written
20 agreements with registrants, to prohibit hyperlinks
21 in the new domain that take new domain users out-
22 side of the new domain.

23 “(12) Any other action that the NTIA con-
24 siders necessary to establish, operate, or maintain

1 the new domain in accordance with the purposes of
2 this section.

3 “(c) TREATMENT OF REGISTRY AND OTHER ENTI-
4 TIES.—

5 “(1) IN GENERAL.—Only to the extent that
6 such entities carry out functions under this section,
7 the following entities are deemed to be interactive
8 computer services for purposes of section 230(c) of
9 the Communications Act of 1934 (47 U.S.C.
10 230(c)):

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

13 “(B) Any entity that contracts with such
14 registry to carry out functions to ensure that
15 content accessed through the new domain com-
16 plies with the limitations applicable to the new
17 domain.

18 “(C) Any registrar for the registry of the
19 new domain that is operating in compliance
20 with its agreement with the registry.

21 “(2) SAVINGS PROVISION.—Nothing in para-
22 graph (1) shall be construed to affect the applica-
23 bility of any other provision of title II of the Com-
24 munications Act of 1934 to the entities covered by
25 subparagraph (A), (B), or (C) of paragraph (1).

1 “(d) EDUCATION.—The NTIA shall carry out a pro-
2 gram to publicize the availability of the new domain and
3 to educate the parents of minors regarding the process
4 for utilizing the new domain in combination and coordina-
5 tion with hardware and software technologies that provide
6 for filtering or blocking. The program under this sub-
7 section shall be commenced not later than 30 days after
8 the date that the new domain first becomes operational
9 and accessible by the public.

10 “(e) COORDINATION WITH FEDERAL GOVERN-
11 MENT.—The registry selected to operate and maintain the
12 new domain shall—

13 “(1) consult with appropriate agencies of the
14 Federal Government regarding procedures and ac-
15 tions to prevent minors and families who use the
16 new domain from being targeted by adults and other
17 children for predatory behavior, exploitation, or ille-
18 gal actions; and

19 “(2) based upon the consultations conducted
20 pursuant to paragraph (1), establish such proce-
21 dures and take such actions as the registry may
22 deem necessary to prevent such targeting.

23 The consultations, procedures, and actions required under
24 this subsection shall be commenced not later than 30 days

1 after the date that the new domain first becomes oper-
2 ational and accessible by the public.

3 “(f) COMPLIANCE REPORT.—The registry shall pre-
4 pare, on an annual basis, a report on the registry’s moni-
5 toring and enforcement procedures for the new domain.
6 The registry shall submit each such report, setting forth
7 the results of the review of its monitoring and enforcement
8 procedures for the new domain, to the Committee on En-
9 ergy and Commerce of the House of Representatives and
10 the Committee on Commerce, Science, and Transportation
11 of the Senate.

12 “(g) SELECTION OF CONTRACTOR.—

13 “(1) WITHDRAWAL OF REGISTRY.—

14 “(A) ELECTION BY REGISTRY.—Upon a
15 good faith showing by the registry of the new
16 domain to the NTIA of extreme financial hard-
17 ship in the operation of the new domain occur-
18 ring any time after the date of the enactment
19 of the Dot Kids Implementation and Efficiency
20 Act of 2002, the registry may elect to relinquish
21 the right to operate and maintain the new do-
22 main. Notwithstanding the time of occurrence
23 of such extreme financial hardship or the time
24 of such election, the registry may not relinquish

1 such right before the expiration of the 3-year
 2 period beginning upon such date of enactment.

3 “(B) SELECTION OF NEW CONTRACTOR.—

4 If the registry elects to relinquish such right
 5 pursuant to subparagraph (A), the NTIA shall
 6 select a contractor to operate and maintain the
 7 new domain under the competitive bidding proc-
 8 ess established pursuant to paragraph (2).

9 “(C) EXTREME FINANCIAL HARDSHIP.—

10 For purposes of this paragraph, the term ‘ex-
 11 tremе financial hardship’ means that each quar-
 12 ter, for a period of 6 or more consecutive quar-
 13 ters, the costs of establishing, operating, and
 14 maintaining the new domain exceed the reve-
 15 nues generated from registrants by more than
 16 25 percent.

17 “(2) COMPETITIVE BID SELECTION PROCESS.—

18 The NTIA shall establish a process for soliciting ap-
 19 plications and selecting a contractor to operate and
 20 maintain the new domain pursuant to this sub-
 21 section), which process shall comply with the fol-
 22 lowing requirements:

23 “(A) TIMING.—The selection process shall
 24 commence and complete not later than (i) 120
 25 days after the registry elects to relinquish the

1 new domain for extreme financial hardship, or
2 (ii) the expiration of a contract referred to in
3 paragraph (4), as applicable.

4 “(B) NOTICE.—The selection process shall
5 provide adequate notice to prospective appli-
6 cants of—

7 “(i) the opportunity to submit such an
8 application; and

9 “(ii) the criteria for selection under
10 subparagraph (C).

11 “(C) CRITERIA.—The selection shall be
12 made pursuant to written, objective criteria de-
13 signed to ensure—

14 “(i) that the new domain is operated
15 and maintained in accordance with the re-
16 quirements under subsection (b); and

17 “(ii) that the contractor selected to
18 operate and maintain the new domain is
19 the applicant most capable and qualified to
20 do so.

21 “(D) REVIEW.—Not more than 60 days
22 after the conclusion of the period established
23 for submission of applications, the NTIA
24 shall—

1 “(i) review and apply the selection cri-
2 teria established under subparagraph (C)
3 to each application submitted; and

4 “(ii) based upon such criteria and
5 subject to submission of an application
6 meeting such criteria, select an application
7 and award to the applicant a subcontract
8 for the operation and maintenance of the
9 new domain.

10 “(E) FAILURE TO FIND CONTRACTOR.—If
11 the NTIA fails to find a suitable contractor
12 pursuant to the process under this paragraph,
13 the NTIA shall permit the registry to cease op-
14 eration of the new domain.

15 “(3) RIGHTS AND DUTIES.—A contractor se-
16 lected pursuant to this subsection shall have all of
17 the rights and duties of the registry specified under
18 this section, except that such duties shall not include
19 the technical maintenance of the new domain.

20 “(4) CONDITIONS OF CONTRACT RENEWAL.—In
21 the case of the expiration of a contract for operation
22 and maintenance of the new domain with a con-
23 tractor selected pursuant to paragraph (2), the
24 NTIA may renew such contract or, subject to para-
25 graph (2), rebid the contract to a new contractor.

1 Nothing in this section shall be construed to prevent
2 the registry of the United States country code Inter-
3 net domain from bidding to become the contractor of
4 the new domain.

5 “(h) SUSPENSION OF NEW DOMAIN.—If the NTIA
6 finds, pursuant to its own review or upon a good faith
7 petition by the registry, that the new domain is not serving
8 its intended purpose, the NTIA shall instruct the registry
9 to suspend operation of the new domain until such time
10 as the NTIA determines that the new domain can be oper-
11 ated as intended.

12 “(i) DEFINITIONS.—For purposes of this section, the
13 following definitions shall apply:

14 “(1) HARMFUL TO MINORS.—The term ‘harm-
15 ful to minors’ means, with respect to material,
16 that—

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

22 “(B) the material depicts, describes, or
23 represents, in a manner patently offensive with
24 respect to minors, an actual or simulated sexual
25 act or sexual contact, an actual or simulated

1 normal or perverted sexual act, or a lewd exhi-
 2 bition of the genitals or post-pubescent female
 3 breast; and

4 “(C) taken as a whole, the material lacks
 5 serious, literary, artistic, political, or scientific
 6 value for minors.

7 “(2) MINOR.—The term ‘minor’ means any per-
 8 son under 13 years of age.

9 “(3) REGISTRY.—The term ‘registry’ means the
 10 registry selected to operate and maintain the United
 11 States country code Internet domain

12 “(4) SUITABLE FOR MINORS.—The term ‘suit-
 13 able for minors’ means, with respect to material,
 14 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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