

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3833**

OFFERED BY MR. SHIMKUS

Strike all after the enacting clause and insert the following:

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;



1 (4) exposure of children to material that is in-
2 appropriate for them, including pornography, can
3 distort the education and development of the Na-
4 tion's youth and represents a serious harm to Amer-
5 ican families that can lead to a host of other prob-
6 lems for children, including inappropriate use of
7 chat rooms, physical molestation, harassment, and
8 legal and financial difficulties;

9 (5) young boys and girls, older teens, troubled
10 youth, frequent Internet users, chat room partici-
11 pants, online risk takers, and those who commu-
12 nicate online with strangers are at greater risk for
13 receiving unwanted sexual solicitation on the Inter-
14 net;

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

20 (7) children who come across illegal content
21 should report it to the congressionally authorized
22 CyberTipline, an online mechanism developed by the
23 National Center for Missing and Exploited Children,
24 for citizens to report sexual crimes against children;



1 (8) the CyberTipline has received more than
2 64,400 reports, including reports of child pornog-
3 raphy, online enticement for sexual acts, child moles-
4 tation (outside the family), and child prostitution;

5 (9) although the computer software and hard-
6 ware industries, and other related industries, have
7 developed innovative ways to help parents and edu-
8 cators restrict material that is harmful to minors
9 through parental control protections and self-regula-
10 tion, to date such efforts have not provided a na-
11 tional solution to the problem of minors accessing
12 harmful material on the World Wide Web;

13 (10) the creation of a “green-light” area within
14 the United States country code Internet domain,
15 that will contain only content that is appropriate for
16 children under the age of 13, is analogous to the
17 creation of a children’s section within a library and
18 will promote the positive experiences of children and
19 families in the United States; and

20 (11) while custody, care, and nurture of the
21 child reside first with the parent, the protection of
22 the physical and psychological well-being of minors
23 by shielding them from material that is harmful to
24 them is a compelling governmental interest.

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



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

5 (2) to ensure that the National Telecommuni-
6 cations and Information Administration oversees the
7 creation of such a second-level domain and ensures
8 the effective and efficient establishment and oper-
9 ation of the new domain.

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

11 Section 103(b)(3) of the National Telecommuni-
12 cations and Information Administration Organization Act
13 (47 U.S.C. 902(b)(3)) is amended—

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

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

18 (3) by adding at the end the following new sub-
19 paragraph:

20 “(C) shall assign to the NTIA responsi-
21 bility for providing for the establishment, and
22 overseeing operation, of a second-level Internet
23 domain within the United States country code
24 domain in accordance with section 157.”.



1 **SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DO-**
2 **MAIN.**

3 The National Telecommunications and Information
4 Administration Organization Act (47 U.S.C. 901 et seq.)
5 is amended in part C by adding at the end the following
6 new section:

7 **“SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DO-**
8 **MAIN.**

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

16 “(b) CONDITIONS OF CONTRACT RENEWAL.—The
17 NTIA may not renew any contract to operate and main-
18 tain the domain with the initial registry, or enter into or
19 renew any such contract with any successor registry, un-
20 less such registry enters into an agreement with the
21 NTIA, during the 90-day period beginning upon the date
22 of the enactment of the Dot Kids Implementation and Ef-
23 ficiency Act of 2002 in the case of the initial registry or
24 during the 90-day period after selection in the case of any
25 successor registry, as applicable, which provides for the



1 registry to carry out, and the new domain operates pursu-
2 ant to, the following requirements:

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

6 “(2) Written agreements with each registrar for
7 the new domain that ensure use of the new domain
8 is in accordance with the standards and require-
9 ments of the registry.

10 “(3) Written agreements with registrars, which
11 shall require registrars to enter into written agree-
12 ments with registrants, to use the new domain in ac-
13 cordance with the standards and requirements of the
14 registry.

15 “(4) Rules and procedures for enforcement and
16 oversight that minimize the possibility that the new
17 domain provides access to content that is not in ac-
18 cordance with the standards and requirements of the
19 registry.

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

23 “(6) A process to provide registrants to the new
24 domain with an opportunity for a prompt, expedi-
25 tious, and impartial dispute resolution process re-



1 garding any material of the registrant excluded from
2 the new domain.

3 “(7) Continuous and uninterrupted service for
4 the new domain during any transition to a new reg-
5 istry selected to operate and maintain the United
6 States country code domain.

7 “(8) Procedures and mechanisms to promote
8 the accuracy of contact information submitted by
9 registrants and retained by registrars in the new do-
10 main.

11 “(9) Operationality of the new domain not later
12 than one year after the date of the enactment of the
13 Dot Kids Implementation and Efficiency Act of
14 2002.

15 “(10) Written agreements with registrars,
16 which shall require registrars to enter into written
17 agreements with registrants, to prohibit two-way and
18 multiuser interactive services in the new domain, un-
19 less the registrant certifies to the registrar that such
20 service will be offered in compliance with the content
21 standards established pursuant to paragraph (1) and
22 does not compromise the safety or security of mi-
23 nors.

24 “(11) Written agreements with registrars,
25 which shall require registrars to enter into written



1 agreements with registrants, to prohibit hyperlinks
2 in the new domain that take new domain users out-
3 side of the new domain.

4 “(12) Any other action that the NTIA con-
5 siders necessary to establish, operate, or maintain
6 the new domain in accordance with the purposes of
7 this section.

8 “(c) TREATMENT OF REGISTRY AND OTHER ENTI-
9 TIES.—

10 “(1) IN GENERAL.—Only to the extent that
11 such entities carry out functions under this section,
12 the following entities are deemed to be interactive
13 computer services for purposes of section 230(c) of
14 the Communications Act of 1934 (47 U.S.C.
15 230(c)):

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

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

23 “(C) Any registrar for the registry of the
24 new domain that is operating in compliance
25 with its agreement with the registry.



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

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

15 “(e) COORDINATION WITH FEDERAL GOVERN-
16 MENT.—The registry selected to operate and maintain the
17 new domain shall—

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



1 “(2) establish such procedures and take such
2 actions as may be necessary to prevent such tar-
3 geting.

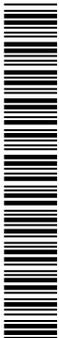
4 The consultations, procedures, and actions required under
5 this subsection shall be commenced not later than 30 days
6 after the date that the new domain first becomes oper-
7 ational and accessible by the public.

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

16 “(g) SELECTION OF REGISTRY.—

17 “(1) WITHDRAWAL OF REGISTRY.—

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

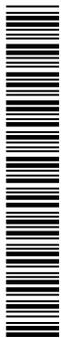


1 new domain under the competitive bidding proc-
 2 ess established pursuant to paragraph (2). The
 3 subcontractor shall have all of the rights and
 4 duties specified under this Act, except that such
 5 duties shall not include the technical mainte-
 6 nance of the new domain.

7 “(B) EXTREME FINANCIAL HARDSHIP.—
 8 For purposes of this paragraph, the term ‘ex-
 9 tremе financial hardship’ means that the costs
 10 of operating and maintaining the new domain
 11 exceed the revenues generated from registrants
 12 by more than 25 percent for a period of more
 13 than 6 consecutive quarters, following the first
 14 year of operation.

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

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



1 “(B) NOTICE.—The selection process shall
2 provide adequate notice to prospective appli-
3 cants 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
20 for submission of applications, the NTIA
21 shall—

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



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

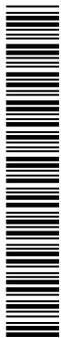
7 “(E) FAILURE TO FIND SUBCON-
 8 TRACTOR.—If the NTIA fails to find a suitable
 9 subcontractor pursuant to the process under
 10 this paragraph, the NTIA shall permit the reg-
 11 istry to cease operation of the new domain.

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

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

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

24 “(A) the average person, applying contem-
 25 porary community standards, would find, taking



1 the material as a whole and with respect to mi-
2 nors, that it is designed to appeal to, or is de-
3 signed to pander to, the prurient interest;

4 “(B) the material depicts, describes, or
5 represents, in a manner patently offensive with
6 respect to minors, an actual or simulated sexual
7 act or sexual contact, an actual or simulated
8 normal or perverted sexual act, or a lewd exhi-
9 bition of the genitals or post-pubescent female
10 breast; and

11 “(C) taken as a whole, the material lacks
12 serious, literary, artistic, political, or scientific
13 value for minors.

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

16 “(3) SUITABLE FOR MINORS.—The term ‘suit-
17 able for minors’ means, with respect to material,
18 that it—

19 “(A) is not psychologically or intellectually
20 inappropriate for minors; and

21 “(B) serves—

22 “(i) the educational, informational, in-
23 tellectual, or cognitive needs of minors; or

24 “(ii) the social, emotional, or enter-
25 tainment needs of minors.

