Statement of
U.S. Representative Edward J. Markey (D-MA)
Introduction of the
"Dot Kids Domain Name Act of 2001"
July 24, 2001

I am please to be here today with Representative John Shimkus (R-IL) and to be his lead cosponsor on the "Dot Kids Domain Name Act of 2001". I think this is an excellent idea, an important initiative for the Internet, and I want to commend Representative Shimkus for his leadership on this issue.

Creating a new, kids-friendly top level domain (TLD) is something that I think will be a useful tool to millions of parents and their families. Moreover, I think it will assist the private sector as well. That's because it creates a positive domain location where companies and organizations can self-associate their content with ".kids" as a Internet suffix and thereby convey material that is sound, healthy, educational, or entertainingly safe for children.

Rather than trying to send problematic material for children into a specific area, such as a "dot adult" or a "dot xxx" domain, the cyberspace zoning equivalent of an online "red light district," this legislation creates an Internet playground, a top level domain that is kids-friendly from the start. I am hopeful that the introduction of this bill and our efforts to publicize the possibilities of such a domain will accelerate its introduction in the real world.

And that's an important point to emphasize. We would not need to be here today if the Internet Corporation for Assigned Names and Numbers – known as "ICANN" – had worked to create such a domain. Instead, ICANN has failed to do so thus far.

This initiative represents an important test for ICANN. At this stage of its evolution, ICANN suffers from a kind of "cyber-schizophrenia." It purports to merely be a "technical" organization and does not willingly accept the notion that it is making Internet policy. On the other hand, it's decisions are replete with policy implications. In my view, when ICANN creates Internet top level domains it is clearly making policy. Yet it has proceeded to do so thus far without any policy criteria, due process, adequate appeal structure, or reasonable accountability. The ICANN staff appears to make up the process as it goes along. Moreover, the Commerce Department is completely absent from the policy debates and appears to be subcontracting out US Internet policy to an unaccountable organization.

In this sense, the "dot kids" domain is, at one level, merely a proxy for countless other ideas and applicants for top level domains that were not chosen by ICANN – new domains that undoubtedly could have been launched to flourish on the Internet. If ICANN truly can find "technical" reasons why "dot kids" cannot exist, then they need to let us know what those reasons are. On the other hand, if ICANN creates *subjective* criteria, to ascertain whether of not "dot kids" -- or any other top level domain for that matter – should be authorized, then it must come up with the kind of transparent, democratic, responsive structure and due process that is conducive to sound resolution of policymaking in subjective, often political, areas of public policy.

I am excited about the possibilities of creating a "dot kids" domain and look forward to working with John Shimkus and our other colleagues in making this a reality. Thank you.

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Summary of Dot Kids Domain Name Act of 2001

The bill requires NTIA to use its authority under its Memorandum of Understanding with ICANN to (1) work with ICANN to create a new kids-friendly top level domain name, and (2) make any necessary changes to existing agreements necessary for ICANN to carry out the plan.

Requirements for a Kid-friendly Top Level Domain

The new domain will be used exclusively as a location of kid-friendly material and will have the following characteristics: (1) an independent board to help define necessary operating details of the domain; (2) input on the establishment, operation, and maintenance of the new domain from consultations with family groups and international organizations interested in the Internet; (3) periodic audits conducted to ensure compliance with the purpose of the domain; (4) an appeals process for decisions to excluding certain material from the domain. The independent board will create written criteria for determining what material will be permitted or excluded from the domain. It will also be required to ensure that the rates/fees charged for obtaining a domain name in the domain are as minimal as possible.

Selection Process

Application Process

Within 60 days of the creation of the plan, ICANN must solicit private sector applications to operate and maintain the domain. The application process must be publicly noticed to prospective applicants, include necessary details about the selection process, and require the filing of a minimal application fee. ICANN is required to reimburse any filing fees that exceed the actual costs of establishing the new domain.

Selection Process

As part of the plan, NTIA and ICANN are required to establish a process for selection of an applicant to operate and maintain the new kids-friendly domain. The selection process is required to include written, objective criteria for selecting an applicant. The selection process is required to conclude 60 days after the conclusion of the application process. ICANN is required to review all the applications, select the applicant best able to implement the selection criteria, and award a contract to the winner. ICANN must provide assistance to facilitate the operation of the new domain and conduct annual oversight to ensure proper operation of the new domain. If ICANN determines that no applicant meets the minimum requirements for the new domain, then it is required to undertake a second selection process. If, after the second selection process, ICANN cannot select an applicant, it is required to provide a detailed, written report the to the Department of Commerce explaining the reasons for not selecting an applicant.

Establishment of Priority

To ensure NTIA and ICANN's attention to this issue, the bill prevents ICANN or NTIA from approving any other top-level domains or country code domains not already approved by ICANN as of date of enactment until the kids-friendly domain is created. Further, to preserve NTIA's role in the process of selecting new domain, the bill requires the NTIA take all actions to prevent the Memorandum of Understanding from expiring.

Liability Protections

As an incentive for a private sector company to operate and maintain the new domain, the bill provides some liability protections. The liability protections are intended to prevent legal challenges against the operator of the new domain because of the material included by a registrant to the domain. Further, the protections allow the operator of the domain to restrict material that can be included in the domain. Lastly, the protections prevent legal challenges on the ability of the operator of the domain to provide technological means to prevent access to non-kid-friendly material.