



## **Commission on Child Online Protection**

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### **I Introduction**

Thank you for the opportunity to speak today in support of a separate Internet domain for material that is harmful to minors. At Enough Is Enough, we believe that such a domain can be an important part of the solution to child protection online.

Let me be clear, however, that we are not suggesting that such a domain is a “silver bullet” that would render all other parts of the solution unnecessary. The Internet is probably the most significant revolution in communications since the invention of the printing press. It would be simplistic to imagine that the issues it raises could be solved by any single panacea.

The most commonly suggested single panacea (in some quarters) is that child protection online should be left entirely to parents. Parents certainly have the primary responsibility for raising their children, and their responsibility is no less in the area of Internet safety. However, it is simply unrealistic to believe that parents can do the job alone – even if they were as Internet-literate as their children, which is frequently not the case.

By comparison, parents also have the primary responsibility to teach their children about the dangers of irresponsible use of tobacco or alcohol. But in those areas (where, incidentally, many parents have more knowledge than they do about the Internet) parents also have the support of laws making it illegal for others to provide alcohol or tobacco to their children – not to mention restrictions on even advertising such products to minors.

We believe that children’s protection online similarly requires separate but complimentary responsibilities on the part of parents; other gatekeepers like teachers and librarians; the internet industry; the law and law enforcement; and, yes, maybe even the pornographers too. A separate domain would be an assist to meet these various responsibilities, not an opiate to make them go away.

## **II Why creating an Adult Domain deserves serious consideration**

### **1 An adult zone will make HtM material much easier to isolate.**

There is a considerable amount of misinformation and disinformation about filtering. Opponents of filtering trumpet any examples of over- or under-blocking with a glee that dramatically overstates their frequency, and sometimes suggest that all filters depend on simple word association, which is simply not true.

Nevertheless, it is certainly true that identifying all new porn sites is a significant challenge for filtering companies, whether their software operates by some form of artificial intelligence or by using so-called “spiders” to add to their proprietary database. With an adult domain, however, filtering a large portion of the troublesome material becomes instead a binary question – a “yes or no” test.

The advantage of this binary test would be to make it significantly easier to protect children from HtM material. How difficult would it be, for example, for AOL and other service providers to add "block adult domain" to their list of parental control options? The same question could presumably be added to any browser.

### **2 A broad-based problem needs a broad-based solution**

The Internet, for all its many blessings, has also created an unprecedented, effortless and almost automatic distribution system for pornographers. It is no exaggeration to point out that it is easier for a 12-year-old to find hard-core pornography on the Internet today, than it was for an adult to find it in many American cities ten years ago. (By “hard-core” I mean what prosecutors call “penetration clearly visible,” or PCV, not mere *Playboy* centerfolds.) By comparison with this effortless distribution system, solutions like filtering software and one-click-away resources require effort and expertise on the parts of parents.

While we support “one-click-away” solutions – in fact, three years ago our own website was one of the first to provide this type of help - we also recognize that, compared to the effortless reach of the distribution system, such solutions have a limited audience. Part of the solution, at least, must be coextensive with the reach of the problem – just as the limitations on selling or advertising tobacco or alcohol apply to all minors, not just those whose parents best understand the problem.

### **3 Zoning is what we already do in the physical world**

The right objective for Cyberspace with respect to HtM material should be for it to be subject to the same standards as the physical world - neither more nor less. Our society accepts that certain material is acceptable for adults but not for kids; as illustrated, for example, by the zoning of sexually-oriented businesses that are for adults only, or the use of blinder racks for

adult magazines in newsstands. A "dot adult" Internet zone recognizes the same reality. Why would we not apply the same concept to cyberspace?

### **III – Questions and Answers**

#### **1 Would an adult domain create an attractive nuisance that would make it easier for children to find HtM materials?**

Unfortunately, lest we forget, it would be just about impossible for pornography to be easier to find on the Internet than it already is. I have attached the Enough Is Enough fact sheet “Is Pornography Really So Easy To Find On The Internet?” for the record. If a person is looking for pornography on the Internet, it is already almost impossible to miss.

The words “sex” and “porn” are consistently at or near the top of the list of words entered into search engines, and lead quickly to free samples of hard-core material. In other words, the attractive nuisance already exists. With an adult domain, however, the attractive nuisance would at least be easier to isolate.

#### **2 If U.S. law required use of the domain, would this lead HtM sites to move offshore?**

The answer to this question has a number of parts. Firstly, if a U.S. corporation or individual placed a porn web site offshore, it is not self-evident that they would necessarily escape U.S. jurisdiction - any more than the person who opens an offshore bank account necessarily avoids IRS jurisdiction over the interest income. It is interesting to note that England has already prosecuted an English porn site operator who located his site here in the U.S. in the vain hope of escaping English jurisdiction.

Secondly, the U.S. is not the only country troubled by this issue, which is under serious study with varying legislative proposals in the European Union, Australia and other countries. Between shared concerns and moral suasion, the number of potential havens could be expected to drop with the passage of time. Already, in the battle against child pornography, there is a notable amount of international cooperation - for example, the roundup of the “Wonderland” child pornography ring, which involved simultaneous arrests in twelve countries.

The U.S. has been the leader in developing the Internet. Should we not also be the leader in developing solutions to the problems it has brought with it?

#### **3 Would creating an adult domain effectively legalize obscenity?**

Creating an adult domain for HtM material would not legitimize obscenity any more than creating a sexually-oriented business zone does in the physical world. In neither case does the decision to create an adult zone imply that obscene materials will be or should be free from prosecution.

Another advantage of an adult domain, however, is that it would aid in shielding children from the large amount of unprosecuted obscenity already present in U.S. web sites on the Internet. At a recent public hearing of the House Commerce Committee here in Washington, representatives of the Justice Department confirmed – albeit grudgingly - that they have initiated almost no prosecutions of Internet obscenity in the last five years. While this lack of energy by the Justice Department is a scandal in itself, an adult domain would at least provide some level of safety net between children and any unprosecuted obscenity on the Internet.

#### **4 Should it be mandatory for porn sites to reside in the adult domain?**

In an ideal world, it would not be necessary to make compliance mandatory. In fact, ideally porn sites would already have taken voluntary steps to keep their materials from younger eyes. Instead, however, we find the opposite - “stealth” porn sites using child-appeal brand names like Disney, Pokemon, or Barbie to bring traffic to their sites.

It is obviously unlikely that the owners of such sites would voluntarily relocate to an adult domain, since, for whatever reason, advertising to children appears already to be part of their standard operating procedure. The use of an adult domain by HtM sites should, therefore, be made mandatory.

#### **5 Is it possible to adequately define which materials should be in this domain?**

It’s interesting that this question causes more trouble to well-meaning academics than it does to commercial pornographers, who know exactly what will sell – and it’s not Michaelangelo’s *David* or AIDS prevention information. The guy running the Pink Kitty Porn Palace isn’t showing video tours of the Louvre! The idea that it is beyond human capacity to define in words what the porn merchants can tell at a glance is, well, improbable.

Those whose interests or ideology are advanced by making pornography as widely available as possible like to focus attention on the borderline cases – say, AIDS prevention sites or gynecology sites – suggesting that the mere existence of marginal cases makes any law automatically vague and unenforceable. This is the only area of law, however, where anyone seriously suggests that the existence of marginal cases makes the entire objective unattainable. In defending a manslaughter charge, the borderline difference between “self-defense” and “provocation” can be the difference between jail time and freedom. Should we abandon the law of manslaughter because juries have to make judgment calls?

While a number of different approaches could be taken to defining the reach of an adult domain, it is unreasonable to suggest that it is beyond definition. And the harsh reality is that there is a host of material already on the Internet that is harmful to minors by almost any standard.