# Internet Protocol Numerical Address Zoning

Testimony

before the

## Commission on Online Child Protection

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by

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The following is submitted according to H.R. 4328, SEC. 1405, addressing paragraphs (c)(1)(A), (2), and (3).

# INTERNET PROTOCOL NUMERICAL ADDRESS ZONING

Proposal addressing H.R. 4328, SEC. 1405, paragraph 2F

Chairman Telage and Members of the Commission:

Thank you very much for inviting me to discuss other technologies to protect children online. My name is Will Clinger. Before I begin, I must state that these opinions are my own and not those of my employer. I received a degree in electrical engineering from Lehigh University and started my own online service over a decade ago. I have theoretical knowledge and first-hand, practical experience in many of the technologies presented. I struggled to implement my own filtering. I offered immediate, "point-of-sale" credit card transactions. I have also spoken to many angry parents. One in particular, I shall never forget. Fear was so clearly evident in her voice. She knew that her child was involved in something potentially very harmful and she had no understanding of it. I had great difficulty telling her that I knew of no reasonably effective solution.

During the debates over the Communications Decency Act, I heard a very astute comment by Cathleen Cleaver[1], "Technology makes few goals, if any, impossible to achieve." This is certainly true. As the online age dawned, we as a society *could* have mandated the ideal solution and left the implementation details to the engineers. So, what is the ideal solution?

1. **Protect privacy to the greatest extent possible.**

   a) Third party registration is not necessary.

   b) Avoid database "cross-pollination." Privacy is best protected when databases are isolated and used only for the specified purpose.

2. **The ideal solution must pass strict Constitutional scrutiny.**

3. **It must possess universality and not be quickly rendered obsolete.**

   Most people use the terms "web" and "Internet" interchangeably. However, the two are not identical. The web is only one of many Internet protocols. As you well know, potentially HtM content is in nearly every Internet protocol: the web, USENET, IRC, FTP, Telnet and e-mail. So, the solution needs to address all existing protocols as well as those yet to come. For example, soon all home video games, which certainly have their share of sexually explicit titles, will plug directly into the Internet. Thus, any web based (e.g. tags within HTML content) or even PC based solution is not applicable to these devices.

[1] Cathy Cleaver is Counsel for the Constitutional Subcommittee of the House Judiciary Committee

4. **The ideal solution should not hinder technological development, forcing antiquated frameworks into new technologies because they are the only recognized affirmative defenses.**

5. **Children should not be identified or flagged on the Internet.**

6. **To access indecent speech, any perceivable pause or manual transaction requirement for age verification might well be successfully argued as censorship because some users will avoid these sites simply because of the inconvenience.**

7. **The solution must be robust and tamperproof.**

   In the discussion of a top-level domain, I heard no one mention that this approach could be defeated in its entirety by typing the numerical address rather than a verbal URL. For example, if I wished to view the COPA Commission website I can type, "http://www.copacommission.org" or "http://216.33.223.64"

   Now, suppose there emerged a new indecent site, www.hotsex.xxx, which correctly used a top-level domain as an affirmative defense but its actual IP address was not in any filtering table. A child could easily find and use the IP address.

8. **How satisfied parents will be with the Commission's recommendations will depend up the following qualities:**

   a) Not require technical competency
   b) Easy to install or use
   c) Cost free or very inexpensive
   d) Offer a comprehensive standard for HtM content for "quality control" and comparison

I believe there is a solution that meets all of these requirements. We can zone the Internet by means of its *numerical* addresses. This strategy reserves an unused portion of the Internet, which shall not contain harmful to minors material. This is quite different from what has previously been proposed with a top-level, *verbal* domain zone.

Just as radio stations broadcast on specific frequencies, websites and other Internet services are assigned unique IP (Internet Protocol) numerical addresses. So, the idea is simply to designate a small, contiguous block (sequential range) of addresses for compliance with U.S. law. This would not require any change to the *verbal* domain. If this were adopted and employed, it would be a simple matter for Internet service providers to give consumers a choice. Consumers could opt for the protections within the U.S. Zone or continue to receive a largely unregulated Internet connection. Ideally, however, rather than a unilateral action by the United States government, international participation could be achieved through ICANN.

For the Internet to function, IP addresses must be unique. So, this does not impose a new task. IP numerical zoning asks the simple question, "Why can we not exercise some forethought and common sense in the allocation of Internet addresses?" Our failure to do so has exacerbated

many of the problems. In particular, one reason for the high failure rate of filters is that HtM content is scattered homogeneously throughout the IP spectrum.

Now is an ideal time to implement this legislation. There are current revisions to the Internet, which allow it to expand its *potential* capacity to over 65,000 times its current size. This equates to a ratio of a tenth of an inch against the height of the Washington Monument or the size of the District of Columbia compared to the entire United States. The Green Zone could be, for example, only 1% of this new space and create a cyberspace universe 650 times larger than the current worldwide Internet.

This zoning proposal has been carefully scrutinized against court opinion concerning Internet decency legislation and is an implementation of Supreme Court Justice Sandra Day O'Connor's recommendations in her review of the Communications Decency Act. She stated, "Our precedent indicates that the creation of such zones can be constitutionally sound."

I am aware that some believe the lack of "secondary effects" of HtM content does not allow a "reasonable time, place and manner restriction" which is one court affirmed basis for zoning as held in Ward v. Rock Against Racism[2]. I believe this is clearly false. Harm to minors is an undesirable, secondary effect of HtM material. These harms are "real, not merely conjectural"[3] and have been documented by the *Enough is Enough* organization and others.[4] A recent Newsweek article[5] reports that at a public library, three teenagers, apparently heated up by what they'd been watching on the computer, were observed having group sex in the bathroom.

I believe that the other requirements of a reasonable time, place and manner restriction have been satisfied. The significant government interest in the protection of children has not been challenged. IP numerical zoning is a solution so narrowly tailored that it is invisible to the common public. The Green Zone will be a minority of the Internet leaving "ample alternative channels for communication." Finally, how is reference to HtM content any less content-neutral than reference to "adult" theaters as in the City of Renton v. Playtime Theaters[6]? If, however, one rejects the content-neutrality of IP numerical zoning, strict judicial scrutiny is still met. The government does have a compelling interest and it is the least restrictive means of offering an effective solution.

Finally, one might argue against IP zoning because it excludes HtM content from an entire Internet "district" and cite Schad v. Borough of Mount Ephraim[7]. In this case that the Supreme Court ruled unconstitutional, the borough attempted to ban all adult theaters from every commercial district in the city. As the Green Zone has no geographic boundaries, I fail to see how this case is applicable. An Internet company could still offer HtM content to an adult *anywhere* that service was provided.

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[2] 491 U.S. 781, 798 (1989)
[3] *United States v. National Treasury Employees Union*, 115 S. Ct. 1003, 1017 (1995)
[4] *Amicus* Brief in Reno v. ACLU, Supreme Court 96-511, by Enough is Enough, The Salvation Army, The National Political Congress of Black Women, Inc., The National Council of Catholic Women, Victims' Assistance Legal Organization, Childhelp USA, Legal Pad Enterprises, Inc., Focus on the Family, The National Coalition for the Protection of Children and Families and other Amici.
[5] Downey, Sarah. "Not on the Reading List". *Newsweek*, 17 July 2000, p. 50
[6] 475 U.S. 41 (1989).
[7] 452 U.S. 61 (1981)

Zoning legislation would also pass conclusions made by the Pennsylvania Federal Court against the Communications Decency Act. This court stated it was not "technically feasible or economically viable" to comply with the law. Zoning does not require any new technology. It simply is an intelligent way to apply *currently* required standards. So, neither cost nor technical implementation is an impediment.

A brief summary of the benefits of Internet Green Zoning:

1. The Commission nor Congress is not faced with endorsing any special interests.

2. Zoning is also protocol independent. It is applicable to *all* existing uses of the Internet and survives media convergence.

3. Without manual intervention, new HtM sites are automatically and immediately filtered to those households wishing "Green" Internet access.

4. The seemingly impossible task of keeping search engines from finding inappropriate material is now easily solved without tagging or adding additional "intelligence" to the engine.

5. Zoning leverages Internet rules which cannot be disobeyed and already employ extremely tight security.

6. It requires no new technology.

Guidelines *only* applicable to the Green Zone are the following:

**1. The Commission should recommend an objective, unambiguous (not dependent upon community standards), and broader definition of HtM content than Ginsberg v. New York[8] provides.**

As pornographic publishers would have a larger Internet spectrum available to them outside of the Green Zone and available to anyone worldwide, constitutionally protected speech would *not* be jeopardized with a broader definition. The rights of American citizens would not be infringed.

**2. Violent content should be added to HtM material.**

**3. Unsolicited e-mail or "spamming" of USENET would be prohibited.**

Previous attempts by Congress to control unsolicited e-mail have failed and the deluge of unwanted e-mail has greatly increased. Many of the bulk e-mailers seem to have no intention of complying with the legislation. They appear to repeatedly claim "one time only, no need to request removal" distributions or list an e-mail address for removal that does not exist. Even if all mass e-mailers did make a good faith effort to comply, it is an overwhelming task for consumers to individually request removal from the countless number of senders. The final outrage and irony is that computer savvy users know they should *never* request removal since this tells mass e-mailers that their address is valid.

Greenspace solves this problem by allowing consumers to declare, simply by virtue of being within the protected zone, that they do not wish to receive any unsolicited e-mail.

[8] 390 U.S. 629 (1968)

Consumers would be free, however, to sign-up for as many e-mail distribution lists as they wished. Ideally, PKI would be used for verification.

4. **Criminal penalties are needed against an adult sending HtM communications into the Green Zone.**

   The number one complaint of parents is very sexually explicit e-mail being sent to children. The general problem of mass e-mail is addressed above in #3. This statue is designed to protect minors and also women from harassment in specific ("point-to-point") transmissions. Previously, prosecutors would have to prove a defendant knew the recipient was a minor. Now the felony is simply sending HtM e-mail into the Green Zone which a clear line of demarcation on the Internet.

5. **Other content such as bomb making manuals, gambling, sales of alcohol, or other such material as may be harmful to minors should also be prohibited.**

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In conclusion, we can preserve free speech while protecting the interests of society. This stems from simply realizing that the Internet is not a limited resource. There can be something for everyone. For those that like the Internet as it is, the status quo does largely remain. Within the Green Zone, however, we provide many urgently needed safeguards. For parents, we render pornography inaccessible by default. Business would also be very interested in a Green Zone because as much as 70% of traffic on some porn sites is during work hours[9]. For those drowning in unsolicited e-mail, we can provide a simple solution as a secondary benefit in addressing the HtM problem. As the United States has created the Internet, we should lead the way in ensuring that the Internet will benefit society and not be exploited. Zoning can achieve this without censorship or hindering development.

[9] Conlin, Michelle, "Workers, Surf at Your Own Risk". *Business Week,* 12 June 2000, pp. 105-106

# Analysis of Zoning

as required by H.R. 4328, SEC. 1405, (3)

**(A) the cost of such technologies and methods**

IP zoning is not dependent upon the development or introduction of any new technology. It simply requires that some forethought be given to the allocation of Internet spectrum. The primary costs, therefore, are administrative and logistical.

**(B) the effects of such technologies and methods on law enforcement entities**

The intention of zoning is to minimize the burden on our courts while decreasing some of the problems created by the Internet. This is achieved by first providing a wall between sexually explicit activities and children. Secondly, zoning will use objective language to eliminate problems created by applicable "community standards." Zoning also removes the difficulty of proving a defendant knew a recipient was a minor.

**(C) the effects of such technologies and methods on privacy**

Zoning is designed to protect privacy to the greatest extent possible in *all* zones. Outside of the Green zone, no third party registration or database "cross-pollination" is required. U.S. citizens may still anonymously obtain online pornography. Within the Green Zone, Congress should legislate against the selling or disclosure of personal information and e-mail addresses.

**(D) the extent to which material that is harmful to minors is globally distributed and the effect of such technologies and methods on such distribution**

If the U.S. fails to obtain international cooperation, it could still unilaterally provide protection for its children. Since the Green Zone would be a contiguous block of addresses, it would be a simple matter for ISPs to filter all traffic originating outside of it. However, U.S. ISPs willing to take liability for the content may host foreign websites.

**(E) the accessibility of such technologies and methods to parents**

Parents may obtain a pornography-free Internet connection for their children simply by *asking* for the Green Zone. Schools and libraries may also do the same. No parent or school need be confronted with a bewildering array of filtering software, costs, installation difficulties, configuration and continued updating to use filters that are not reasonably effective.