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4 MARKUP OF H.R. 805, THE DOTCOM ACT OF 2015

5 TUESDAY, JUNE 16, 2015

6 House of Representatives,

7 Committee on Energy and Commerce

8 Washington, D.C.

9 The Committee met, pursuant to call, at 5:01 p.m., in
10 Room 2123 of the Rayburn House Office Building, Hon. Marsha
11 Blackburn [Chairwoman of the Committee] presiding.

12 Members present: Representatives Blackburn, Shimkus,
13 Bilirakis, and Pallone.

14 Staff present: Ray Baum, Senior Policy Advisor for
15 Communications and Technology; Sean Bonyun, Communications
16 Director; Karen Christian, General Counsel; Andy Duberstein,
17 Deputy Press Secretary; Gene Fullano, Detailee, Telecom;
18 Kelsey Guyselman, Counsel, Telecom; Brittany Havens,

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19 Oversight Associate, Oversight and Investigations; Peter
20 Kielty, Deputy General Counsel; Grach Koh, Counsel, Telecom;
21 David McCarthy, Chief Counsel, Environment and Economy;
22 Charlotte Savercool, Legislative Clerk; Jen Berenholz,
23 Democratic Chief Clerk; Christine Brennan, Democratic Press
24 Secretary; Jeff Carroll, Democratic Staff Director; David
25 Goldman, Democratic Chief Counsel, Communications and
26 Technology; Margaret McCarthy, Democratic Senior Professional
27 Staff Member; Tim Robinson, Democratic Chief Counsel; and
28 Ryan Skukowski, Democratic Policy Analyst.

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29 Mrs. {Blackburn.} [Presiding] The Chair recognizes
30 herself for 5 minutes for an opening statement.

31 I am pleased to support this bipartisan legislation,
32 which will make sure we work through a checklist of to-do
33 items before completing the IANA transition. For the multi-
34 stakeholder model of Internet governance to work, we need
35 transparency, credibility, and accountability. We still
36 don't have that with ICANN. That is why there is growing
37 consensus that the IANA transition is not yet ready for prime
38 time.

39 One thing in particular that concerns me is that ICANN,
40 the registries, and registrars are not abiding by Sections 3,
41 7, 3, 18, and 3(a) in their own public interest commitments,
42 and the Registrar Accreditation Agreement. These contractual
43 provisions, created through the multi-stakeholder process,
44 require ICANN, the registries, and the registrars to prohibit
45 domain name holders from engaging in illegal activity, such
46 as distributing malware, abusively operating botnets,
47 phishing, piracy, trademark, or copyright infringement,
48 fraudulent or deceptive practices, counterfeiting, or
49 otherwise engaging in activity contrary to applicable law.
50 They must investigate claims of infringement, and take action

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51 for such behavior, including, in some cases, suspension of
52 the domain name.

53 ICANN says it should not be the content police, and I
54 agree, but that is not the issue. Before signing off on the
55 transition, we must make sure that ICANN is enforcing
56 provisions in its own contracts. I believe this bill
57 requires the NTIA to certify that this is occurring before
58 the transition takes place.

59 [The prepared statement of Mrs. Blackburn follows:]

60 ***** COMMITTEE INSERT *****

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61 Mrs. {Blackburn.} And with that I yield back the
62 balance of my time, and I recognize the gentleman from New
63 Jersey, Mr. Pallone, for 5 minutes.

64 Mr. {Pallone.} I want to thank Chairwoman Blackburn.
65 First let me ask unanimous consent to enter into the record
66 this opening statement of Representative Eshoo.

67 Mrs. {Blackburn.} So ordered.

68 [The prepared statement of Ms. Eshoo follows:]

69 ***** COMMITTEE INSERT *****

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70 Mr. {Pallone.} I am pleased that the full Committee is
71 moving quickly to advance the bipartisan agreement we reached
72 in the Communications and Technology Subcommittee on H.R.
73 805, the DOTCOM Act. The bill received unanimous support in
74 the Subcommittee, and has been endorsed by numerous
75 stakeholders, including the Internet Association, the
76 Internet Governance Coalition, and the National Cable and
77 Telecommunications Association.

78 Tomorrow we will offer a bipartisan managed amendment
79 that makes a simple technical change to the bill we approved
80 in the Subcommittee, and I urge all my colleagues to support
81 it. The DOTCOM Act continues the longstanding Congressional
82 support for the global open Internet, while appropriately
83 conducting oversight of the National Telecommunications and
84 Information Administration. I believe our bill provides the
85 necessary safeguards for the timely transition of the
86 Internet Assigned Numbers Authority, or IANA.

87 As I said before, our approach in the DOTCOM Act is a
88 far better alternative to blocking NTIA's ability to
89 implement the transition through an Appropriations bill. I
90 am committed to working with my colleagues to see the DOTCOM
91 Act becomes law, and removes the funding limitation that was

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92 included in the House Commerce, Justice, and Science
93 Appropriations bill. To that end, I want to thank our
94 colleagues on the Senate Commerce Committee, who have
95 introduced a companion bill to the DOTCOM Act.

96 I also wanted to comment Chairman Walden and
97 Representative Shimkus for working with us on this bill. You
98 have heard me say before that we are most successful when our
99 work is truly bipartisan, and the DOTCOM Act is the perfect
100 case in point. I look forward to working with all of you to
101 get this bill to the President's desk as soon as possible,
102 and I yield back. Thank you, Madam Chairwoman.

103 [The prepared statement of Mr. Pallone follows:]

104 ***** COMMITTEE INSERT *****

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105 Mrs. {Blackburn.} The gentleman yields back. At this
106 time, Mr. Shimkus, you are recognized for your opening
107 statement.

108 Mr. {Shimkus.} Thank you, Chairwoman Blackburn, for
109 holding today's markup, and thank you to my colleagues on the
110 Subcommittee for the unanimous--this legislation. This
111 legislation is a great example, as Ranking Member Pallone
112 said, of what we can do when we work together in a bipartisan
113 fashion, and I really appreciate all the great work staff did
114 on making this happen. We would not be here today without
115 Chairman Upton, Chairman Walden, Ranking Members Pallone, and
116 Eshoo.

117 The DOTCOM Act is our best way forward to ensuring
118 Congress can exercise a meaningful and appropriate oversight
119 role in the IANA stewardship transition. In the--short, the
120 legislation requires NTIA to renew their contract with ICANN
121 before it expires in September. And, I want to reiterate,
122 that is a very, very important aspect of this, that the
123 contract gets renewed. Everyone agrees that the contract
124 should remain with NTIA while this process moves forward.
125 DOTCOM is a vehicle to make sure this does, in fact, happen.
126 Extending the contract takes the pressure off of making a

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127 rushed transition, and perhaps making mistakes. We get one
128 bite at the apple on this, and we need to make sure it is
129 done correctly.

130 From there, as Chairman Blackburn stated, the DOTCOM Act
131 will hold NTIA accountable to their word by requiring them to
132 certify that all their conditions for the transfer are met,
133 and that ICANN has adopted the necessary bylaw changes.
134 Congress will then have 30 legislative days to review the
135 proposal and NTIA's report. If everything checks out, the
136 transition can move forward without further delay. If
137 legitimate concerns remain, we can take additional
138 legislative action at that time.

139 This is an important moment for the Internet, but there
140 is no moving back into mom and dad's basement if it doesn't
141 work out. We only have one chance to get this right, so I
142 urge my colleagues to vote yes on the DOTCOM Act so we can
143 move forward in a thoughtful and a responsible way. And with
144 that, Madam Chairwoman, I yield back my time.

145 [The prepared statement of Mr. Shimkus follows:]

146 ***** COMMITTEE INSERT *****

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147 Mrs. {Blackburn.} The gentleman yields back. Mr.
148 Bilirakis, you are recognized for 3 minutes for an opening
149 statement.

150 Mr. {Bilirakis.} Thank you, Madam Chairwoman,
151 appreciate it very much. The DOTCOM Act is an important
152 piece of legislation. We must ensure that the Internet that
153 we know, love, and depend on remains a vibrant and open
154 marketplace for goods and ideas. The bill is a bipartisan
155 product of years of hard work on an issue that could have
156 disastrous consequences if left under control--uncontrolled.
157 With swift passage of this legislation, we will ensure that
158 the Internet Assigned Numbers Authority, or IANA, will
159 continue to be governed in a responsible and reasonable
160 manner.

161 I applaud the work that Representative Shimkus, Chairman
162 Walden, and Ranking Member Pallone have put into this piece
163 of legislation. This bill will guarantee an important
164 transition will be done properly, and with necessary
165 oversight. I yield back. Thank you.

166 [The prepared statement of Mr. Bilirakis follows:]

167 ***** COMMITTEE INSERT *****

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168 H.R. 805

169 Mrs. {Blackburn.} The gentleman yields back his time.

170 The Chair calls up H.R. 805, as forwarded by the Subcommittee

171 on Communications and Technology, and asks the Clerk to

172 report.

173 The {Clerk.} H.R. 805, to prohibit the National

174 Telecommunications and Information Administration from

175 relinquishing responsibility over the Internet Domain Name

176 System until the Comptroller General of the United States

177 submits to Congress a report on the role of the NTIA with

178 respect to such system.

179 [The bill follows:]

180 ***** INSERT 1 *****

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181 Mrs. {Blackburn.} Without objection, the first reading
182 of the bill is dispensed with, and the bill will be open for
183 amendment at any point. So ordered.

184 We are now on H.R. 805, and the Committee will reconvene
185 at 10:00 a.m. tomorrow. I remind members that the Chair will
186 give priority recognition to bipartisan agreements, and I
187 look forward to seeing everyone tomorrow. We are in recess.

188 [Whereupon, at 5:11 p.m., the Committee was adjourned.]