

Response to GAC comments:

We have followed the GAC public comments and Applicants responses to GAC Advice process closely and feel it is important to submit this second round of comments in order to address many of the points posed by our colleagues and competitors in the last several weeks.

First, the GAC was established to “provide advice on issues related to public policy, and especially where there may be an interaction between ICANN’s activities or policies and national laws or international agreements”. To imply, as many of the comments have, that the “GAC has overstepped its role under the Applicant Guidebook [... by offering] public policy advice” is clearly an attempt to censor the GAC’s ability to enforce necessary regulations geared towards consumer safety and long-term integrity.

It would not have been possible for the GAC or ICANN to anticipate the vastly wide and completely subjective interpretations that would come from the Applicant Guidebook or the response of governmental bodies, worldwide; and therefore, it has been necessary for both organizations to adapt policies throughout the process to further clarify regulations and implement safeguards. We realize this poses a hefty challenge to applications which do not currently contain the appropriate safeguards and operating policies, but hardly believe it is appropriate to ask for the advice to be disregarded because “several sections either require significant implementation work or are inconsistent with prior board decisions” – Portfolio Applicant.

We also find it unreasonable that another Applicant indicates that the GAC advice is “vague, overbroad, and not capable of implementation in its current form”. If Applicants, individually, are incapable of establishing and maintaining registration guidelines and operating policies which protect consumers, registrants, and governmental bodies from abuse and fraudulent registration, then we would advise that they withdraw their applications instead of attempting to spin a PR campaign that discredits the significance of the talking points brought forward by the Beijing Communiqué.

Another Portfolio Applicant indicated in their comment that if the “GAC advice were followed, the new gTLD program would be changed from an objective process in which qualified Applicants are granted new gTLDs into an ongoing subjective regime in which new policies and rules can be issued by the GAC on an ad-hoc basis without reference to principles, rationales, or access to any appeal by affected parties.” I strongly disagree, and see nothing subjective about the GAC’s requests. You are either clearly able to demonstrate the capability to responsibly manage data collection, registrant information, and respect the perimeters of long-established regulated industries, or you aren’t. While it is not financially beneficial to most of these Applicants to adopt strict registration policies and increased securities, it is necessary; and I would much prefer that Applicant’s concerns that are based on

revenue intake not be masked by false narratives about the overall “stakeholder model” of ICANN.

We would agree with many of our colleagues who have indicated that the GAC advice was not specific or stringent enough. Even the Beijing Communiqué provides loopholes and indicates the potential ability of Applicants to revise or alter their applications in order to better comply with the advice. Just as PICs have been made optional, we foresee that ICANN will not strictly enforce the GAC advice as proposed and that ultimately, concerns of string confusion or the ability to alter registration policies will be an ongoing and tragic theme of the new gTLD process. We would encourage ICANN to uphold their policy in relation to material changes to applications and to thoroughly evaluate if the Registration Policies for strings appearing in the GAC Communiqué concretely detail the Applicant’s ability and planned process for implementation of safeguards. If these hurdles are not addressed, now the impact on businesses and consumers could be monumental, leaving a wake of non-operational strings and abusive registrations.

Further, for Applicants to comment that they believe their applications contain the necessary precautions and appropriate restrictions to comply with the GAC safeguards related to corporate identifiers is, at this point, comical. In relation to corporate identifiers specifically, we find the following hypocritical statements to be prevalent throughout these applications:

One portfolio Applicant who has applied for the extensions of : .INC, .LLC, .LLP and .CORP states in question 18 of their applications for .CORP, .LLC, and .LLP that they “as the registry operator, will define the specialized meaning of the term and, based on this definition, will identify criteria for registrants to operate in the proposed gTLD. Only entities that meet these criteria will be entitled to register for a domain in the gTLD. Specialization, therefore, arises from their definition of a term, as well as through **market dynamics as entities align their offering(s)** with the term.” This thought process poses three unique problems:

- 1) The Applicant does not indicate what definition they are considering using and, as it appears, reserves the right to change the definition if what they initially decide on is not profitable enough. The definition for these “terms” was established decades ago by the legal system in the United States as abbreviations used to denominate registered US businesses, and while I believe they are far clever enough to create their own definitions for any of these extensions, I am currently unable to think of an alternative meaning for the abbreviation .LLC? While it is obviously convenient to drive profits by “defining” your intended registrants based off of the “market dynamics” that will increase your revenue stream, it in no way curtails the confusion pushed on to consumers by corporate designations becoming standard fare, such as the .COM or .NETs of the current name space.

- 2) In their own words, as published in their comment on the GAC Advice, “the GAC’s advice for all strings is broadly worded and does not provide targeted suggestions for resolution.” A seemingly odd comment from an Applicant whose corporate designation applications are wrought with generic statements and minimal registration guidelines. I find it strange that a company who is unable to clearly define who their intended registrants are or what their registration policies might be plans to challenge the GAC to a specifics war. When do they feel it might be appropriate to explain their registration criteria? Maybe after their strings are awarded, so that it can be tailored to best suit the profit model they are looking for and not have the ability to get denied?
- 3) Further, in their application for .INC, it indicates that: “(Registry) plans to require Registrars to confirm that a domain Applicant is a legally recognized corporation via an established process.” It is unrealistic to believe that Registrars would be able to handle the verification process, or that State databases would be made readily available to any Registrar that chose to carry a corporate designation on their market shelf. Are they aware that a vast many states do not even have online databases that would hold the information necessary to appropriately track these registrations? Are we to believe that Registrars will be comfortable baring the burden of manual verification in these situations, or would the Applicant just change the definition of their registrant in order to eliminate some of the previously indicated safeguards?

In another portfolio Applicant’s response to the Beijing Communiqué, they indicate that they believe their applications, “meet or exceed ICANN’s requirements in this area” and that they have “already included many measures to address the issues raised by the GAC.” This Applicant submitted over 31 fairly identical applications to the new gTLD program, their applications for the extensions of : .LLC and .INC differ only slightly from applications submitted for generic terms. They indicated in question 18 of their .INC and .LLC applications that the string “will be an open TLD, generally available to all registrants (except in the Sunrise period). The domains can be used for any purpose, including for business use, for personal use and by organizations. There are no content or use restrictions for this TLD.” They go on to further only explain the policies associated to sunrise, premium name distribution and other pricing related items and fail to mention any protection mechanisms or guidelines that would indicate they are capable of implementing or interested in any items posed in the Beijing Communiqué. I would further note that their disinterest in offering corporate identifiers to verified registered businesses could be affirmed by the fact that no PICs have been filed from them in relation to these strings.

It will be impossible to maintain the integrity of corporate designations over time if the strings are issued in a generic format to Applicants such as these listed above who are unable to provide a consistent presentation of thought from their application to their

comments. I can only assume that anyone comfortable mis-speaking about their own policies and not demonstrating a clear plan of action to implement concepts proposed by the GAC would not comply with any policies put in place after these strings are awarded to them. I would strongly urge ICANN to be leery of representations made by Applicants throughout the comment period and to **cross-reference** their proposed intentions with their applications.

Additionally, it is widely known that corporate designations represent specific entities in the United States, of which a common set of standards are imposed on, registration policies are established for, and operations are monitored. To ignore the clearly defined community of Registered US Businesses would be in direct violation of the GAC's advice in Section IV, Letter E of the Beijing Communiqué. As the only community Applicant for the extensions of: .INC, .LLC, .LLP, and .CORP I would urge ICANN to consider the public opinion expressed by countless members of this community, various Secretaries of State across the US and the National Association of Secretaries of State in regards to the necessity of safeguards., the implication of these strings being issued in a format contrary to that detailed in the GAC advice, and the overall negative impact that these strings could have on registrants and end-users if not appropriately protected. We not only comply with the recently issued GAC advice, our applications provide detailed explanations of how we plan to implement, maintain, verify and control the extensions of .INC, .LLC, .LLP, and .CORP. We have worked diligently to establish registration policies and naming conventions, which not only compliment registration criteria in all the 50 US States and territories, but also establish a working relationship with the governing bodies charged with the registration and monitoring of corporate entities in the United States.

My company, Dot Registry, LLC has the ability and desire to manage the extensions of .INC, .LLC, .LLP, and .CORP in compliance with the safeguards detailed throughout the Beijing Communiqué; and that can be confirmed throughout our applications without any material changes or PICs. While the public comment period has proved entertaining for us, we hope that ICANN is able to distinguish the difference between the blatant misrepresentations made in this process and the honest concerns of Applicants who have diligently followed the guidebook.

Thank you for the opportunity to comment.  
Respectfully submitted,  
Shaul Jolles