Reconsideration Request Form

Version of 11 April 2013

ICANN's Board Governance Committee is responsible for receiving requests for reconsideration from any person or entity that has been materially affected by any ICANN staff action or inaction if such affected person or entity believes the action contradicts established ICANN policies, or by actions or inactions of the Board that such affected person or entity believes has been taken without consideration of material information. Note: This is a brief summary of the relevant Bylaws provisions. For more information about ICANN's reconsideration process, please visit http://www.icann.org/en/general/bylaws.htm#IV and http://www.icann.org/en/committees/board-governance/.

This form is provided to assist a requester in submitting a Reconsideration Request, and identifies all required information needed for a complete Reconsideration Request. This template includes terms and conditions that shall be signed prior to submission of the Reconsideration Request.

Requesters may submit all facts necessary to demonstrate why the action/inaction should be reconsidered. However, argument shall be limited to 25 pages, double-spaced and in 12 point font.

For all fields in this template calling for a narrative discussion, the text field will wrap and will not be limited.

Please submit completed form to reconsideration@icann.org.

1. Requester Information

Name: **Commercial Connect, LLC.**

Address: Contact Information Redacted

Email: Contact Information Redacted

Phone Number (optional): Contact Information Redacted

2. Request for Reconsideration of (check one only):

_X__ Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

We are a community applicant for .shop gTLD. We also applied originally in 2000. On or about October 10, 2013 we were notified that we would not be invited for Community Priority Evaluation at this time through ICANN's TAS

system. When we inquired as to why – we were told the following:

- One or more applications in the contention set has an unresolved objection
- One or more applications in the contention set has unresolved GAC Advice

We have no objections against our application – and while we were objectors to other applications they were not in our contention set and have no bearing on Community Priority Evaluation and should not cause us delay.

Both the community evaluation and objections against others for name similarity can be performed concurrently without harming either party. In fact it is in the best interest of all parties to allow these two processes to occur concurrently.

After over 13 years of delays, misinterpretation of these rules can cause great harm to all applicants waiting for our community evaluation to be completed. There could be as many as 39 applications for the eCommerce name space that can be negatively impacted by not allowing the community evaluation to proceed timely. If we are determined to pass the community evaluation then the other applicants would no longer have to continue the process of planning for delegation which means that would not have to continue paying staff, contractors and overhead for a losing application.

The requirements for being invited to Community Priority Evaluation are not found in the Applicant guidebook and were just recently published. The last four (4) requirements requiring that all members of the contention set must pass is random and only causes harm to all applicants in the set.

There simply is no reason why the Community Priority Evaluation cannot proceed even if other non-community contenders have issues. If the one or more community applicant passes the evaluation, the other non-community contenders will no longer be eligible to continue, thus making the outstanding issues moot.

Our application has received no GAC advice but we provided an additional statement at ICANN's request that confirms what is in our application that we will allow for an open domain as long as community qualifications are met.

4. Date of action/inaction:

October 10, 2013

5. On what date did you became aware of the action or that action would not be taken?

We have been trying to schedule a conference call with ICANN and to date have been unable to. With only fifteen days to submit this action, we felt it was best to

ask this panel to assist us with this issue.

6. Describe how you believe you are materially affected by the action or inaction:

Further delays of Community Priority Evaluation will delay the process of delegation, not only for us but for the potentially 39 applications that are eCommerce centric.

It can be estimated that every month of delay on an application costs the applicant an average of $40,000 USD. Delaying us for just one month could cost this group around $1.5M USD. Loss of income for operation of this registry for the months of delay could be considerably higher.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

See answer to Question 6.

The sooner Community Priority Evaluations are completed the more time, money and effort all contenders against community applicants will save. With the large number of applications involved, this could result in millions of dollars not spent on applicants losing to successful community applications.

8. <u>Detail of Board or Staff Action – Required Information</u>

Staff Action:

.

Provide the Required Detailed Explanation here:

Below are the CPE Eligibility Requirements as stated on ICANN's Website at http://newgtlds.icann.org/en/applicants/cpe#invitations

CPE Eligibility Requirements

To begin CPE, there are eligibility requirements for both the application and the contention set. These requirements are listed below:

To begin CPE, an application must:

- be a self-designated Community Application per section 1.2.3 of the AGB

- be in a string contention set
- not have a pending change request
- not be in the 30-day application comment window for an approved changed request

Additionally, an applicant may only begin CPE if all members of the contention set (including the community applicant(s)) meet the following eligibility criteria:

- Have completed evaluation
- Have no pending objections
- Have no unresolved GAC Advice
- Not be classified in the "High Risk" category of the Name Collisions Risk Management Proposal

We are a self-designated Community Applicant per section 1.2.3 of the AGB

We are in a string contention set

We have no pending change request

We are not in the 30-day application comment window for a change request

Additionally,

We have completed the evaluation along with all members of our contention set

We have no pending objections along with all members of our contention set

We have no unresolved GAC Advice

We are not classified as “High Risk” category of the Name Collision Risk Proposal along with all members of our contention set

While there still exist two cases that we objected to that are still to be decided, these cases are NOT in our contention set and will not be in our contention set until a determination is made and we prevail or if ICANN re-addresses the issue with the string similarity panel being incorrectly instructed by Ms. Willett when she told them to only perform a visual similarity check.

In either case, **at this time** we pass all of the above criteria and should be invited to Community Priority Evaluation.

Allowing us to continue to Community Priority Evaluation does not provide us with preferred treatment and all contenders could only benefit from an earlier evaluation result.

9. What are you asking ICANN to do now?

We are requesting that ICANN invite Commercial Connect to Community Priority Evaluation and not needlessly delay our application further.

10. Please state specifically the grounds under which you have the standing and the right to assert this Request for Reconsideration, and the grounds or justifications that support your request.

We, as an applicant for the new generic Top Level domain name .shop, have standing to file this request for reconsideration.

By the ICANN evaluation panel not inviting us to Community Priority Evaluation it will result in more delays for delegation.

The burn rate for Commercial Connect to wait for ICANN to allow us to reapply for the .shop top level domain name has exceeded $5 million USD. Additional delays amplify these costs. In addition, the burn rate experience by the potential 38 other eCommerce related name space applicants can cost these applicants over $1.5 million USD for each month it is delayed.

The sooner we are invited to Community Priority Evaluation the less loss will be experience by all involved.

11. Are you bringing this Reconsideration Request on behalf of multiple persons or entities? (Check one)

____ Yes

__X__ No

Terms and Conditions for Submission of Reconsideration Requests

The Board Governance Committee has the ability to consolidate the consideration of Reconsideration Requests if the issues stated within are sufficiently similar.

The Board Governance Committee may dismiss Reconsideration Requests that are querulous or vexatious.

Hearings are not required in the Reconsideration Process, however Requestors may request a hearing. The BGC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing.

The BGC may take a decision on reconsideration of requests relating to staff action/inaction without reference to the full ICANN Board. Whether recommendations will issue to the ICANN Board is within the discretion of the BGC.

The ICANN Board of Director's decision on the BGC's reconsideration recommendation is final and not subject to a reconsideration request.

Signature

10/25/2013

Date