



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Cooperation
The Director

Brussels,
DG CNECT/ D1/AG/vm

Board of Directors of ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA
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Subject: **Interim position of the European Commission concerning the applications for new generic Top-Level Domains**

Following the public announcement of the full list of applications for new generic Top-Level Domains (gTLD) as part of the new gTLD programme managed by the Internet Corporation for Assigned Names and Numbers (ICANN) the European Commission (the Commission) has proceeded to an internal assessment of all applications.

In light of the broad diversity of such applications, the assessment, coordinated by the Directorate-General for Communication Networks, Content and Technology (DG CONNECT), which represents the Commission in the Governmental Advisory Committee (GAC) of ICANN, has involved a number of different Directorates-General within the Commission.

For clarity, this assessment focused on matters which are under either exclusive or shared competence of the European Union (EU) and did not extend to matters which are clearly under the national competence of the Member States of the European Union.

This letter is meant to provide the first conclusions of such assessment.

The Commission has identified a number of new gTLD applications which could possibly raise issues of compatibility with the existing legislation (the *acquis*) and/or with policy positions and objectives of the European Union. A non-exhaustive list of the domain names which have been found to possibly raise such issues is provided in Annex 1 to this letter.

Notwithstanding this interim conclusion, **at this point in time the Commission is of the opinion that issuing Early Warnings is not warranted**. Accordingly, this letter **shall not be considered** in any way or form as representing an "Early Warning" to the applicants of the new gTLDs included in Annex 1, or to any other new gTLD applicant.

I would like to point out that:

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1. The fact that a particular new gTLD is included in the non-exhaustive list provided in Annex 1 does not *per se* mean that the European Commission conclusively claims that such a new gTLD is in violation of the *acquis* or of policy positions and objectives of the EU.

The presence of a new gTLD in the list is rather a signal that further discussions with the relevant applicant are necessary. In some cases, such discussions are already on-going. In general, we invite all the applicants to perform the necessary due diligence and assess whether engaging the European Commission, for matter which fall under EU exclusive or shared competence, is necessary. The Commission stands ready to provide clarifications to applicants which will contact it, via its representatives on the GAC.

2. Generally speaking, all new gTLD applications should properly take into account the "GAC Principles regarding new gTLDs" of 2007,¹ as well as the more specific concerns expressed by a number of GAC members, *inter alia* in the Communiqué of the GAC of 17 October 2012.²
3. It was disappointing to see so few applications for new gTLDs coming from developing countries. This is clearly an area where ICANN needs to re-focus its efforts.
4. The position outlined in this letter is without prejudice to any further action that the Commission might decide to undertake in order to safeguard the rights and interests of the European Union and of its citizens. For the sake of clarity, the Commission does not consider itself legally bound to the processes, including the means of recourse, outlined in the new gTLD Applicant Guidebook and/or adopted by ICANN, unless a legal agreement between the latter and the Commission exists.

I remain available for any further clarifications that might be necessary.

Linda Corugedo Steneberg

Cc: All applicants of the new gTLD programme of ICANN
Members and Observers of the Governmental Advisory Committee of ICANN

¹ See https://gacweb.icann.org/download/attachments/1540128/gTLD_principles_0.pdf?version=1&modificationDate=1312358178000 and Annex 2.

² See https://gacweb.icann.org/download/attachments/4817665/FINAL_Toronto_Communique_20121017.pdf?version=1&modificationDate=1350746371000 and Annex 2 (section IV.1).