

# ANNEX 1

**THE INTERNATIONAL CENTRE FOR EXPERTISE OF THE  
INTERNATIONAL CHAMBER OF COMMERCE**

CASE No. EXP/422/ICANN/39

EUROPEAN STATE LOTTERIES AND TOTO ASSOCIATION

(SWITZERLAND)

vs/

AFFILIAS LIMITED

(IRELAND)

This document is a copy of the Expert Determination rendered in conformity with the New gTLD Dispute Resolution Procedure as provided in Module 3 of the gTLD Applicant Guidebook from ICANN and the ICC Rules for Expertise.

**INTERNATIONAL CHAMBER OF COMMERCE**

**INTERNATIONAL CENTRE FOR EXPERTISE – Centre international d' expertise**

**EXP/422/ICANN/39**

**EUROPEAN STATE LOTTERIES AND TOTO ASSOCIATION (SWITZERLAND) vs/  
AFILIAS LIMITED (IRELAND)**

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**Expert Determination**

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## 1. THE PARTIES

- 1.1 The Objector is European State Lotteries and Toto Association of Avenue de Béthusy 36, 1005 Lausanne, Switzerland.
- 1.2 Parties representatives:
- 1.2.1 Altius, Mr Kristof Neefs, Contact Information Redacted ; and
- 1.2.2 Hengler Mueller Parterschaft von Rechtsanwälten, Dr Dirk Uwer, Contact Information Redacted  
Contact Information Redacted
- 1.3 The Applicant is Afiliás Limited of 2 La Touche House, IFSC, Dublin, Republic of Ireland.
- 1.4 The Objection relates to the string.LOTTO.
- 1.5 This Expert Determination has been rendered in accordance with the Rules for Expertise of the International Chamber of Commerce (ICC), supplemented by the Practice note on the administration of cases under the Attachment to Module 3 of the gTLD (generic Top Level Domain) Applicant Guidebook, New gTLD Dispute Resolution Procedure (Procedure) of the gTLD Applicant Guidebook.
- 1.6 The Objection is dated 13 March 2013 and was filed with the International Centre for Expertise (Centre) of the ICC pursuant to Module 3 of the gTLD Applicant Guidebook, the Procedure, and the ICC Rules for Expertise (Rules) on 13 March 2013.
- 1.7 The Applicant's Response dated 13 May 2013 was filed with the Centre on 13 May 2013.
- 1.8 The Centre has undertaken an Administrative Review of the Objection and the Response and established that they comply with the Procedure and the Rules.
- 1.9 The Expert Panel, Mr Clive Duncan Thorne of Reynolds Porter Chamberlain LLP, Tower Bridge House, St Katharine's Way, London E1W 1AA, was appointed on 12 June 2013 by the Chairman of the Standing Committee pursuant to Art. 3(3) of Appendix I to the Rules.
- 1.10 The file was transmitted to the Expert Panel by the Centre on 3 July 2013.
- 1.11 The Expert Determination was submitted to the Centre on 20 August 2013 within the extended time limit of one week granted by the Centre on 16 August 2013. In the Expert's view, there are no procedural or interlocutory matters outstanding. The language of the proceedings was English pursuant to Article 5(a) of the Procedure.
- 1.12 All communications between the parties, the Expert Panel and the Centre were submitted electronically pursuant to Article 6(a) of the Procedure and no additional submissions or evidence were submitted. No hearing took place or was requested by the parties.

## 2. THE OBJECTION

- 2.1 The Objection is made under Module 3 of the gTLD Applicant Guidebook dated 4 July 2013.
- 2.2 The grounds of objection are a Community Objection as defined in section 3.2.1;
- "There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted."

2.3 Section 3.2.2 of Module 3 provides that:

"Objectors must satisfy standing requirements" and in the case of a community objection, this is that the Objector is an "established institution associated with a clearly delineated community".

2.4 This is elaborated at section 3.2.2.4 as follows:

#### "3.2.2.4 Community Objection

Established institutions associated with clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection. To qualify for standing for a community objection, the objector must prove both of the following:

**It is an established institution** – Factors that may be considered in making this determination include, but are not limited to:

- Level of global recognition of the institution;
- Length of time the institution has been in existence; and
- Public historical evidence of its existence, such as the presence of a formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.

**It has an ongoing relationship with a clearly delineated community** - Factors that may be considered in making this determination include, but are not limited to:

- The presence of mechanisms for participation in activities, membership, and leadership;
- Institutional purpose related to the benefit of the associated community;
- Performance of regular activities that benefit the associated community; and
- The level of formal boundaries around the community.

The Panel will perform a balancing of the factors listed above, as well as other relevant information, in making its determination (in accordance with Art. 3.5.4 of the Guidebook). It is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements."

### 3. OBLIGATIONS OF THE EXPERT PANEL

3.1 These are set out at Section 3.5 of Module 3. Section 3.5 provides that each Panel will use appropriate general principles (standards) to evaluate the merits of each objection. The principles for adjudication on each type of objection are specified. The Panel may also refer to other relevant rules of international law in connection with the standards.

3.2 It should be noted that the Objector bears the burden of proof in each case and that the principles outlined in Module 3 are expressly subject to evolution based on on-going consultation with DRSPs, legal experts and the public.

3.3 Section 3.5.4 of Module 3 sets out the four tests to enable a DRSP Panel to determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted. For an objection to be successful, the Objector must prove that:

- "• The community invoked by the objector is a clearly delineated community; and
- Community opposition to the application is substantial; and
- There is a strong association between the community invoked and the applied-for gTLD string; and
- The application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. Each of these tests is described in further detail below.

**Community** – The objector must prove that the community expressing opposition can be regarded as a clearly delineated community. A panel is entitled to balance a number of factors to determine this, including but not limited to:

- The level of public recognition of the group as a community at a local and/or global level;
- The level of formal boundaries around the community and what persons or entities are considered to form the community;
- The length of time the community has been in existence;
- The global distribution of the community (this may not apply if the community is territorial); and
- The number of people or entities that make up the community.

If opposition by a number of people/entities is found, but the group represented by the objector is not determined to be a clearly delineated community, the objection will fail.

**Substantial Opposition** – The objector must prove substantial opposition within the community it has identified itself as representing. A panel could balance a number of factors to determine whether there is substantial opposition, including but not limited to:

- Number of expressions of opposition relative to the composition of the community;
- The representative nature of entities expressing opposition;
- Level of recognized stature or weight among sources of opposition;
- Distribution or diversity among sources of expressions of opposition, including:
  - Regional
  - Subsectors of community

- Leadership of community
- Membership of community
- Historical defense of the community in other contexts; and
- Costs incurred by the objector in expressing opposition, including other channels the objector may have used to convey opposition.
- If some opposition within the community is determined, but it does not meet the standard of substantial opposition, the objection will fail.

**Targeting** – The objector must prove a strong association between the applied-for gTLD string and the community represented by the objector. Factors that could be balanced by a panel to determine this include but are not limited to:

- Statements contained in application;
- Other public statements by the applicant;
- Associations by the public.

If opposition by a community is determined, but there is no strong association between the community and the applied-for gTLD string, the objection will fail.

**Detriment** – The objector must prove that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. An allegation of detriment that consists only of the application being delegated the string instead of the objector will not be sufficient for a finding of material detriment.

Factors that could be used by a panel in making this determination include but are not limited to:

- Nature and extent of damage to the reputation of the community represented by the objector that would result from the applicant's operation of the applied-for gTLD string..."

#### **4. LOCUS STANDI**

4.1 Under clause 3.2.2.4 of Module 3, the Objector has to show that it has locus standi to object. This requires it to show that it is an established institution and also that it has an on-going relationship with a clearly delineated community.

##### **(i) Established institution**

4.2 The Objector relies upon the following evidence to support its submission that it is an established institution:

4.2.1 that it was created in 1983 under Swiss law;

4.2.2 it is an umbrella organisation of National Lotteries, operating lotteries, lottery games, sport betting and other games of chance for the public benefit;

4.2.3 its members are organisations that only offer lotteries, lotto and betting services in jurisdictions in which they are licensed by the respective national government. They strictly adhere to national laws and high level consumer protection standards. The greater part of members' annual sales volume is dedicated to good causes and/or state finances;

4.2.4 the Objector points out that it has over 70 members based in EU and non EU countries listed in Annexes 6 and 7 to the Objection. As such it maintains that it enjoys global recognition as a key player in the representation of licensed lottery operators.

4.3 The Applicant accepts that the Objector "might be able to prove that it is an established institution", but submits that it does not have an on-going relationship with "a clearly delineated community". Module 3 sets out the factors that may be considered in making the determination as to whether the objector is an established institution including level of global recognition, the length of time the institution has been in existence and public historical evidence of its existence. Having considered the evidence referred to above, the Expert finds that the Objector is an established institution for the purposes of paragraph 3.2.2.4. of Module 3.

**(ii) On-going relationship with a clearly delineated community**

4.4 In support of its submissions, the Objector relies upon the following:-

4.4.1 The association is governed by a General Assembly composed of all of European Lotteries members. Details of the organisation of the Objector are set out at Annex 8 to the Objection;

4.4.2 Its aims and objectives as set out in Article 2 of its bylaws (Annex 5) to the Objection are "to advance the collective interests of its members and to enhance the capability, common knowledge and status of individual members";

4.4.3 The Objector substantially invests in these objectives by "weighing in" on policy issues at all European institutions (Annex 9 to the Objection) and by providing a forum in which members can exchange information and experience;

4.4.4 The Objector also publishes, three times a year, a magazine on the European lottery industry as exhibited at Annex 10;

4.4.5 The Objector has determined and adopted responsible Gaming Standards to help tackle illegal gambling and related criminal activities;

4.4.6 The Objector is in constant dialogue with organisations that share its goals such as the World Lottery Association. It should be noted from Annex 2 to the Objection that the World Lottery Association has formally endorsed the current Objection;

4.4.7 The Objector's sole reason of existence is to further the interests of the community it represents in the Objection.

4.5 The Applicant submits that several of the members of the Objector are in constant, deliberate and persistent breach of national laws aimed at the protection of minors and endangered players and the prevention of problem gaming. It refers to the German state lotteries associated with Deutsche Lotto-und Totoblock (DLTB) having been sanctioned by the German courts for violating regulations about advertising for games of chance and letting minors participate in games of chance. This demonstrates that some of the



Objector's significant and prominent members do not seem to belong to the community the Objector claims to represent.

- 4.6 The Applicant also submits, in accordance with Article 4.1.1 of the Objector's statutes (Annex 5 to the Objection), that any organisation within the European sphere that conducts games of chance and/or skill is eligible for regular membership. It points out that the Objector also claims to file the Objection in the name of members based in non EU countries such as Israel and Morocco. It also points out that service providers for member lotteries or associate members may become associate members of the Objector but it is not clear whether the Objection was also filed on behalf of associate members.
- 4.7 In summary, the Applicant submits that the Objector does not have a clearly delineated relationship with a particular community.
- 4.8 Factors that the Panel may take into account in deciding this issue are set out in paragraph 3.2.2.4 of Module 3, including the presence of mechanisms for participation in activities, membership and leadership, and institutional purpose relating to the benefit of the associated community, the performance of regular activities that benefit the associated community and the level of formal boundaries around the community. It is not expected that an Objector must demonstrate satisfaction of each and every factor considered.
- 4.9 It is clear from the evidence submitted by the Objector and set out above that it has an institutional purpose relating to the benefit of the associated community and that it performs regular activities that benefit the associated community. It is apparent from the aims and objectives contained in the bylaws (Annex 5 to the Objection) that the Objector has an institutional purpose relating to the European lottery industry. In the Panel's view the existence of a clearly delineated community does not depend on the fact whether or not certain of its members are in breach of national laws. The Panel notes the submission that only European based organisations are eligible for regular membership. In the Panel's view, it is quite apparent that the Objector represents European lottery organisations whether or not it also represents non-European organisations in countries such as Israel and Morocco. The argument that it is not clear whether the Objection was also filed on behalf of Associate Members is, in the Panel's view, misconceived since it is apparent from the Objector's Statutes (Annex 5 to the Objection) that the Objector represents non-associate ie. "Regular Members". That representation is sufficient to fall within the factors set out at paragraph 3.2.2.4 whether or not the Objection is also filed on behalf of Associate Members.
- 4.10 It follows, and the Panel hereby decides, that the Objector is eligible to file a Community Objection within paragraph 3.2.2.4 of Module 3.

## **5. THE FOUR TESTS TO ESTABLISH A COMMUNITY OBJECTION UNDER ARTICLE 3.5.4 OF MODULE 3**

- 5.1 These are as follows:
  - 5.1.1 The community invoked by the Objector is a clearly delineated community; and
  - 5.1.2 Community opposition to the application is substantial; and
  - 5.1.3 There is a strong association between the community invoked; and the applied for gTLD string; and

5.1.4 The application creates a likelihood of material detriment to the rights or legitimate interest of a significant portion of the community to which the string may be explicitly or implicitly targeted.

## **6. THE COMMUNITY IS CLEARLY DELINEATED**

6.1 The Objector must prove that the community expressing opposition can be regarded as a clearly delineated community. The Panel is entitled to balance a number of factors to determine this which include but are not limited to the following:

6.1.1 the level of public recognition of the group as a community at a local and/or global level;

6.1.2 the level of formal boundaries around the community and what persons or entities are considered to form the community;

6.1.3 the length of time the community has been in existence;

6.1.4 the global distribution of the community (this may not apply if the community is territorial); and

6.1.5 the number of people or entities that make up the community.

6.2 The Objector submits that it falls within these factors because:

6.2.1 The community that it directly represents consists of its own members;

6.2.2 It indirectly represents the World Lottery Association.

6.3 The Objection is also filed on behalf of World Lottery Association members.

6.4 The Objector points out that it has members based in EU and non-EU countries (Annexes 6 and 4 to the Objection) and that the membership of the World Lottery Association which supports the Objection is geographically diversified as set out in Annex 13 to the Objection and covers Lottery members in Europe, Africa, Asia, Australia, North and South America.

6.5 In summary, the Objector submits that the members of the community represented by the Objector all have in common the fact that they are lottery operators which only provide their services in jurisdictions where they are licensed by the government to do so. This distinguishes them from unlicensed operators.

6.6 The Applicant points out that:

6.6.1 the number of entities supporting the Objection is insufficient to constitute a clearly delineated community;

6.6.2 the community which the Objector claims to represent cannot be clearly delineated because there is uncertainty whether the community includes non-EU as well as EU operators of games of chance and service providers;

6.6.3 the Objection fails to draw a clear distinction between licensed and unlicensed operators of games of chance. Regular membership requires that the organisation "is licensed to authorise by a jurisdiction (...) who in accordance with prevailing national law may issue a licence or authorisation to operate such games". It relies on the example that some companies may be licensed in one state to provide cross-border gaming services, eg on-line gaming service and thus act with an

authorisation under their domestic laws while they might not have obtained additional authorisations in other states where they offer their services. It argues that the Objector does not mention on-line cross-border gaming services and submits that the Objector only speaks for state-owned or state controlled operators and that almost all of the Objector's members are state owned or controlled.

6.7 Having considered these submissions the Panel finds that there is a community expressing opposition and that this can be regarded as a "clearly delineated community".

6.8 There is no doubt in the Panel's view that the community represented by the Objector consists of its members based in EU and non-EU countries as listed in Annex 6 and Annex 7 to the Objection. There are over 70 members, all of which consist of licensed lottery operators in those countries. They are organisations that only offer lotteries, lotto and betting services in the countries in which they are licensed by their respective national governments. This is the community. The Panel is required to consider whether the community is clearly delineated.

6.9 The Objector's evidence set out in Annex 4 to the Objection shows that the Objector is the "umbrella" organisation of national lotteries operating games of chance for the public benefit. It states:

*"European Lotteries brings together state-owned and private operators, both profit and non-profit, who operate on behalf of the state. Our members only offer gambling and betting services in the jurisdictions in which they are licensed by the respective national government. Our association was created in 1983 under Swiss law and is head-quartered in Lausanne, Switzerland. In 1999 we adopted the name The European Lotteries and added the sport betting operators to our membership."*

6.10 It is also, in the Panel's view, apparent from Annex 4 that the Objector has an express "mission":-

*" to promote a sound and sustainable gaming model for the benefit of society that we stand for and this is based on the values of subsidiarity, precaution, solidarity and integrity. We advance the collective interests of our members, the national lotteries operating games of chance for the public benefit and defend our model in the discussion on the societal, political, economic and regulatory framework for gambling".*

6.11 In the Panel's view the membership of the Objector, the commonality of membership and the length of time (30 years) that the community has been in existence as well as the global distribution of the community are sufficient to prove that the community is a clearly delineated community.

6.12 In Response, the Applicant submits that the community cannot be "clearly delineated" because:

6.12.1 there is uncertainty whether the community also includes non-EU operators of games of chance and service providers. In the expert's view this is unsustainable. Annexes 6 and 7 demonstrate that membership can come from both members within and without the EU.

6.12.2 the Objector fails to draw a clear distinction between (represented) licensed and (non-represented) unlicensed operators of games of chance and relies upon Article

4.1.2 of the Objector's Statutes set out at Annex 5 to the Objection. Article 4.1.2 of the Statutes requires that regular members are:

"Licensed or authorised by a jurisdiction domiciled in a State recognised by the United Nations who, in accordance with prevailing national law, may issue a licence or authorisation to operate such games as defined in Article 4.1.1 where the annual sales volume of such games form the greater part of the organisation's total gross revenue and whose net revenues for the greater part are dedicated, by public decision, to good causes and/or the State Exchequer..."

6.12.3 In the Panel's view the Applicant's argument fails since it is clear from Article 4.1.2 of the Statutes that it sets out a further factor for the purposes of defining Regular Members of the Objector. It is sufficient that a Regular Member for the purposes of Article 4.1.2 of the Statutes is licensed or authorised within the terms of Article 4.1.2 of the Statutes. This applies whether or not (according to the Applicant) companies may be licensed in one State to provide cross-border gaming services.

6.13 Further, the Applicant argues that almost all of the Objector's member organisations are State-owned or controlled, even though the public does not necessarily expect a lottery to be operated by the State since there are many private operators active in the gaming market. In the Panel's view for the purpose of considering a delineated community it does not matter whether the Objector represents only State-owned or State-controlled operators. A grouping consisting only of State lotteries might still consist of a clearly delineated community as required by paragraph 3.5.4 of Module 3.

6.14 Accordingly, the Panel finds on the basis of the Objector's proof, that the Objector represents a clearly delineated community.

## **7. SUBSTANTIAL COMMUNITY OPPOSITION**

7.1 Pursuant to paragraph 3.5.4 the Objector must prove substantial opposition within the community that it has identified itself as representing. In order to determine whether there is substantial opposition the expert is entitled to balance a number of factors, including but not limited to:

7.1.1 Number of expressions of opposition relative to the composition of the community;

7.1.2 The representative nature of entities expressing opposition;

7.1.3 The level of recognised stature or weight among sources of opposition;

7.1.4 Distribution or diversity amongst sources of expressions of opposition, including:

- Regional;
- Sub-sectors of community;
- Leadership of community;
- Membership of community;

7.1.5 Historical defense of the community in other contexts; and

7.1.6 Costs incurred by Objector in expressing opposition, including other channels the objector may have used to convey opposition.

- 7.1.7 If some opposition is determined, but it does not meet the standard of substantial opposition, the objection will fail.
- 7.2 The Objector submits that the Objection satisfies this test for the following reasons:
  - 7.2.1 More than a significant part of a community of licensed lottery operators clearly opposes the TLD;
  - 7.2.2 The Objector, the World Lottery Association and their members are strongly opposed to the delegation of .LOTTO. The Objector and the World Lottery Association are both household names in the community represented in the Objection;
  - 7.2.3 The fact that two of the community's largest umbrella organisations express such opposition and which is intrinsically linked to their members' activities should carry "much weight" in determining substantial opposition;
  - 7.2.4 A survey among the Objector's members leads to many individual expressions of opposition to the application. The results of the survey are set out in Annex 14 to the Objection.
- 7.3 Against that the Applicant submits:
  - 7.3.1 The Objector does not represent a substantial part of the community it has identified itself as representing. It only speaks for a minority of participants;
  - 7.3.2 Within the European gaming market the Objector only represents operators of games of chance which have an exclusive licence from the State to operate games and are State-controlled, ie. monopolists;
  - 7.3.3 The monopolists represented by the Objector only generate a minor share of gross gaming revenues in Europe and are not representative of private operators of games of chance at which the applied for gTLD string is targeted;
  - 7.3.4 Large gaming markets outside Europe including the USA and Asia Pacific are not represented by the Objector;
  - 7.3.5 Only 46 members out of 70 members of the Objector support the Objection.
- 7.4 The Applicant submits that the Objector only speaks for a minority of participants in the on-line gaming market. It refers to other organisations such as the German Private Lottery Association (DLV), European Gaming and Betting Association (EGBA), the Remote Gambling Association (RGA) and the Interactive Gaming Council (IGC) as representing a large number of games of chance within the EU and worldwide.
- 7.5 The Applicant also stresses that the Objector only represents operators of games of chance having an exclusive State monopoly. These monopolies only generate a minor share of European gross gaming revenues; other large gaming markets in the USA or Asia are not represented by the Objector.
- 7.6 The Applicant points out that only 46 out of 70 members of the Objector support the Objection and that the remaining 24 members cannot be regarded as a substantial part of the community.
- 7.7 The Applicant may be right in the factual basis for its submissions. However in the Panel's view this does not detract from the fact that the Objector still represents a substantial

community opposition. As set out at paragraph 6 of the Objection, the Objection is filed on behalf of the community directly represented by European Lotteries ie. its members and also indirectly on behalf of the World Lottery Association on whose behalf the Objection is also filed. Annex 2 to the Objection is a copy of Letter of Endorsement signed on behalf of the World Lottery Association confirming that the World Lottery Association fully endorses the actions taken by the Objector and *"for the same reasons as those put forward by European Lotteries, shares the view that .LOTTO should not be registered as a generic top level domain (gTLD)."*

7.8 The Panel also notes from Annex 13 to the Objection that the World Lottery Association membership consists of Member Lotteries throughout the world.

7.9 The Panel has considered the conflicting views of the parties in balancing the required factors with paragraph 3.5.4 of Module 3. In the Panel's view the fact that the Objector which represents a significant group of Members within the lottery industry both from the EU and from non-EU countries (Annexes 6 and 7 to the Objection) as well as the World Lottery Association which are opposed to the delegation of .LOTTO means that the Objector has satisfied factors (i), (ii), (iii) and (iv). As the Objector puts it in its Objection;

*"The mere fact that two of the community's largest umbrella organisations express opposition to the delegation of a TLD that is intrinsically linked to their members' activities should carry much weight in determining substantial opposition in accordance with the Guidebook."*

7.10 The Objector also refers to the fact that opposition from a single entity can itself be substantial in a given case and refers to the Applicant Guidebook v4 Comment Analysis.

7.11 In the Panel's view and having considered the evidence and balanced the required factors, it follows that the Objector has succeeded in proving the existence of Substantial community Opposition.

## **8. STRONG ASSOCIATION BETWEEN THE COMMUNITY INVOKED AND THE STRING**

8.1 The Objector must prove a strong association between the applied for gTLD string and the community represented by the Objector. Paragraph 3.5.4 of Module 3 sets out the factors that should be balanced by a Panel to determine this include but are not limited to:

- statements contained in application
- other public statements by the applicant
- associations by the public.

8.2 If opposition by a community is determined, but there is no strong association between the community and the applied-for gTLD string, the Objection will fail.

8.3 In support of its Objection the Objector submits as follows:

8.3.1 It cannot be contested that the TLD applied for is strongly associated with the community *"in the sense of Article 3.45 of the Guidebook"*;

8.3.2 First and foremost the term *"LOTTO"* (and its alternative spelling *"LOTO"*) is associated in the mind of the general public with lotteries;

- 8.3.3 The Statement of Purpose under Section 18(a) of the application (Annex 3 to the Objection) leaves little doubt as to the requirement of association;
  - 8.3.4 Several members of the Objector organise a national lottery using the term "LOTO" or "LOTTO";
  - 8.3.5 There is therefore a clear nexus between the string .LOTTO and state-licensed lotteries ie. the community represented in the Objection.
- 8.4 To the contrary the Applicant submits:
- 8.4.1 The Applicant does not only target monopolies of operators of games of chance as are represented by the Objector but any operators or retailers of games of chance independently of whether they are privately owned or owned or controlled by the State, as well as any companies or institutions whose field of activity is connected with the offering of games of chance;
  - 8.4.2 The Objector refers to "government operated lotteries" as targeted organisations (page 7 of the Objection). The Applicant has included reference to government operated lotteries in order to demonstrate the potential target audience and demand for the applied for the gTLD. This does not mean that the .LOTTO string shall be open only to State owned or operated lotteries;
  - 8.4.3 The term "LOTTO" or "LOTO" is associated in the public mind with lotteries but they are not restricted to State owned or controlled lottery operators;
  - 8.4.4 The public also associates the term "LOTTO" or "LOTO" with products, brand names and trademarks of private operators and does not necessarily expect that gaming services branded in this way are offered by State owned or State controlled organisations. By claiming the term "LOTTO" or "LOTO" exclusively for State owned or controlled lottery operators the Objector neglects the market reality in the worldwide market of games of chance which has a vast number of private operators and service providers;
  - 8.4.5 The .LOTTO string is not identical to the name of the community members or most of their products as will be necessary for the public to make a strong association between the string and the community. Many members of the Objector do not even have the term "LOTTO" or "LOTO" in their name. Overall the Objector has failed to prove that the term "LOTTO" or "LOTO" will exclusively or predominantly be linked by the public to stated owned or controlled operators of games of chance as represented by the Objector. There is therefore no strong association between the community represented and the applied for gTLD string.
- 8.5 In determining this element the Panel has considered as is required by paragraph 3.5.4 the following:
- 8.5.1 Statements contained in the application;
  - 8.5.2 Other public statements by the Applicant;
  - 8.5.3 Associations by the public.

**(i) Statements contained in the application**

8.6 The Applicant specifically refers to Section 18 of the gTLD application (Annex 3 to the Objection) and points out that the gTLD is targeted at any *"entertainment businesses that provide games and lotteries"* and individuals to *"support"* the needs of lottery stakeholders.

8.7 The opening paragraph of Section 18(a) states as follows:

*"The mission of the .LOTTO TLD is to offer entertainment businesses that provide games and lotteries to their customers a namespace to establish meaningful and relevant identities to promote their services and offerings. The primary purpose is to foster a sense of professionalism and trust among customers, other businesses and organisations that are part of the lottery industry..."*

8.8 Section 18(a) goes on to set out a variety of reasons why businesses and individuals would want to acquire the gTLD under the application.

8.9 The Objector submits that the mission statement under Section 18(a) *"leaves little doubt as to the requirement of association. It clearly lists government operated lotteries as the primary target audience for the TLD."* The Applicant points out that although the Objector refers to *"government operated lotteries"* in the application as targeted organisations the Applicant has included such reference in order to demonstrate the potential target audience and demand for the applied for gTLD. That does not mean that the .LOTTO string shall only be open to State owned or operated lotteries. It points out that while it may be true that the terms *"LOTTO"* or *"LOTO"* are associated in the public mind with lotteries such association is not restricted to State owned or controlled lottery operators (as represented by the Objector) but also includes private operators, private brokers and other retailers of games of chance. It refers to a decision of the German Federal Court of Justice (BGH) which has ruled that the term *"LOTTO"* is not necessarily linked to the games of chance operated by the German association of state monopoly lottery companies (DLTB).

**(ii) Other public statements by the applicant**

8.10 There is no reliance by either party on other public statements outside the Application.

**(iii) Associations by the public**

8.11 The Objector submits that the term *"LOTTO or LOTO"* is associated in the mind of the general public with lotteries and that this is true in English, French, German and Spanish. It sets out in Annex 15 to the Objection evidence of lotteries throughout the world and in particular under the heading *"Early History"* shows the history of lotteries and the fact that they have been used to help finance major government products since the Chinese Han Dynasty. It points out that several members of the Objector organise a national lottery using the term *"LOTTO"* or *"LOTO"* including Austria, Belgium, Denmark, Estonia, Finland, France, Ireland, The Netherlands, Norway, Poland, Russia, Slovak Republic, Switzerland and Turkey. (See Annex 16 to the Objection). It also points out that many of the European lotteries own both National or Community Trademarks comprising the term. These are set out at Annex 17 to the Objection. It is argued by the Objector that this further confirms that the relevant public in these jurisdictions will associate the string (and domain names registered under the TLD) to State licensed lotteries.

8.12 The Applicant refers to the registration of the term *"LOTTO"* or *"LOTO"* with the products, brand names or trademarks of private operators, brokers or other retailers of games of chance using these terms. It submits that the public does not necessarily expect that gaming services branded with names using the term *"LOTTO"* or *"LOTO"* to be offered by



State owned or State controlled organisations and that by claiming that the term "LOTTO" or "LOTO" exclusively for State owned or controlled lottery operators, the Objector neglects the market reality in the worldwide market for games of chance and the vast number of private operators and service providers.

- 8.13 It also submits that the .LOTTO string is not identical to the name of the community members or most of their products as is necessary for the public to make a strong association between the string and the community. Many members of the Objector do not have the term or "LOTTO" or "LOTO" in their name eg La Francaise des Jeux in France or Svenska Spel AB in Sweden. They offer examples of lotteries whose brand name does not include the term "LOTTO" or "LOTO" such as the European worldwide lotteries "EuroJackpot" and "Euromillions" or on a national basis, for example, the German lotteries "GlucksSpiral", "Spiel 77" and "Super 6" or the French lottery "Rapido", or the Spanish lottery "el Gordo".
- 8.14 Having considered these factors and the evidence adduced by the parties the Panel takes the view that the Objector has proved a strong association and that the term "LOTTO" or "LOTO" will be linked by the public to the operators of games of chance as represented by the Objector, ie. state-licensed operators and that there is therefore a strong association between the community market and the applied-for gTLD string.

## **9. DETRIMENT**

- 9.1 The Objector must prove that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. An allegation of detriment that consists only of the Applicant being delegated the string instead of the Objector will not be sufficient for a finding of material detriment.
- 9.2 Factors as provided by paragraph 3.5.4 of Module 3 that could be used by a panel in making this determination include but are not limited to:
- 9.2.1 Covering nature and extent of damage to the reputation of the community represented by the Objector that would result from the Applicant's operation of the applied-for gTLD string;
  - 9.2.2 Evidence that the Applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely, including evidence that the Applicant has not proposed or does not intend to institute effective security protection for user interests;
  - 9.2.3 Interference with the core activities of the community that would result from the Applicant's operation of the applied-for gTLD string;
  - 9.2.4 Dependence of the community represented by the objector on the DNS for its core activities;
  - 9.2.5 Nature and extent of concrete or economic damage to community represented by the objector that would result from the Applicant's operation of the applied-for gTLD string; and
  - 9.2.6 Level of certainty that alleged detrimental outcomes would occur.

- 9.3 If opposition by a community is determined but there is no likelihood of material detriment to the targeted community resulting from the Applicant's operation of the applied-for gTLD, the objection will fail.
- 9.4 The Objector takes the view that material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted is *"likely to occur if .LOTTO is delegated"*. It submits as follows:
- 9.4.1 The Applicant who has no known affiliations to State operated lotteries seeks to operate an open .LOTTO top level domain. This would mean that both State licensed lottery operators as well as unlicensed businesses would be able to register domain names in .LOTTO. This entails a substantial risk that illegal ie. unlicensed online gambling offerings will also be operated under the domain.
- 9.4.2 Unlicensed offerings will enjoy association with the term "Lotto" which is associated with the positive qualities of legitimate licensed lottery offerings. Internet users would be led to believe that websites offered under the domain originate from licensed operators.
- 9.4.3 Use of the gTLD would infringe the trademark rights of the European lotteries members.
- 9.4.4 The operation of .LOTTO as an open gTLD would lead to consumer confusion and a negative impact on legitimate lottery businesses and on the values they stand for.
- (i) Nature and extent of damage to the reputation of the community represented by the objector**
- 9.5 The Objector's submission is summarised in that unlicensed operators would;
- "illegitimately ride on the coat tails of the carefully developed reputation of State lotteries, the general availability of .LOTTO domain names would confer upon illegal operators the advantage of associating their website with State licensed lotteries which would damage the interests of unsuspecting consumers which would be detrimental to both licensed operators and internet users"*.
- 9.6 The Applicant submits that the Objector has failed to prove that the delegation of the .LOTTO string would cause significant damage to the reputation of the community represented by the Objector. Insofar as the Objector worries about potential competition to the community members by unlicensed or criminal operators it points out that such risk exists with any gTLD and that this by itself cannot render an objection against the delegation of the gTLD successful. It points out, as is acknowledged by the Objector, that the mere rejection of the delegation of the .LOTTO string will not avoid or reduce unlicensed offers or offers with a criminal background with the gambling market. The prevention of such activity is a regulatory matter and should not be the subject of an objection process against the delegation of a gTLD. Moreover, the decision whether restrictions of internet gambling are necessary and justified are subject to national or EU law and Court decisions.
- 9.7 In summary, the Applicant's case is:
- "It is not up to the Objector or its members to decide about the restrictions adequate to regulate online gambling services and to enforce them via an objection process against the delegation of a gTLD. Thus, the Objector's*

*explanations of alleged justification for a monopoly system for games of chance are of no relevance for the objection process at hand."*

- 9.8 The Applicant also argues that although the Objector criticises the registry policies of the Applicant it is clearly up to the Applicant (not to a minority of market participants) to decide about registry policies for an applied-for gTLD. It is in the nature of a gTLD that such a TLD is generally open to all registrants although in practice most target a certain group of registrants distinguished eg by country, interest or business activities.
- 9.9 In summary, there are no indications of damage to the reputation of the community invoked by the delegation of the applied-for gTLD.
- 9.10 Having considered both parties' submissions the Panel is convinced by the Applicant's case and finds that the Objector has failed to establish damage to the reputation of the community represented by the Objector resulting from the Applicant's operation of the applied-for gTLD string.

**(ii) Evidence that the Applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely**

- 9.11 In summary, the Objector's case is that the Applicant provides "no safeguards whatsoever" that the TLD will only be used by licensed operators so that the user confidence referred to would be justified. It points out that the Applicant proposes to operate .LOTTO as an open TLD that is "generally available to all registrants". (Section 18(b)(iv) of the application annexed as Annex 3 to the Objection.)
- 9.12 The Objector points out that European Lotteries members are well managed businesses whose revenues contribute to society. They adhere to strict standards of responsible gaming, thereby minimising potential harm on society and in particular vulnerable groups. In support of this the Objector refers to a number of decisions of the CJEU, Liga Portuguesa (C-42/07) (Annex 20 to the Objection) and Betfair C-203/08 (Annex 21 to the Objection) which support the view that there is an increased risk of overspending, fraud and addiction by consumers. A report of the European Parliament referred to by the Objector (Report of 14 October 2011 on online gambling in the internal market 2011/2084/INI – Annex 23 to the Objection) acknowledges that:

*"Online gambling, if not properly regulated may involve a greater risk of addiction than traditional physical, location based gambling, owing inter alia to increased ease of access and the absence of social control" and that "consumers must be educated about the potential harm of online gambling and protected against dangers in this area, especially addiction, fraud, scams and underage gambling".*

- 9.13 The Objector argues that against this backdrop it is clear that "regulatory restrictions on internet gambling are justified". It follows that undertakings having been granted and received a State licence to operate a lottery provides legal and business safeguards for responsible gaming and that in the jurisdictions in which European Lotteries' members operate the term "Lotto" and/or "loto" it is directly associated to these positive qualities, standards and safeguards. To the contrary websites operated under the .LOTTO TLD as an open TLD by the Applicant would be subject to the risk that unlicensed and even fraudulent businesses would use the .LOTTO extension to associate unsuspecting internet users and their businesses with the legal safeguards provided by government operated or government licensed lotteries. Unlicensed operators would therefore illegitimately ride on the coat tails of the carefully developed reputation of State lotteries.

- 9.14 In contrast, the Applicant proposes extensive state of the art security measures to prevent illegal, malicious or fraudulent use of the applied-for gTLD. It refers to the anti-abuse policy set out at section 28 of the Application (Annex 3 to the Objection). Moreover it submits that the proposed registry policies further ensure a well regulated registration process to prevent unqualified or incomplete registrations and to protect the rights of third parties.
- 9.15 In summary, the Applicant submits that in view of its long-standing experience in the operation of large gTLD's such as .info (directly as registry operator) and .org (under contract with public interest registry) there can be no doubt that the Applicant can guarantee a high standard of protection for domain users and consumers and acts in the best interests of the community in which the string is targeted. It submits that the Objector has not provided any evidence that the registry policies of the Applicant are insufficient to prevent malicious use of the applied-for gTLD.
- 9.16 The Applicant argues the exclusive access of State owned or State controlled operators of games of chance that the .LOTTO string would not by itself guarantee a high standard of consumer protection for gambling services.
- 9.17 Having considered the parties' submissions the Panel comes to the view that although as pointed out by the Objector there are risks of increased illegal or fraudulent activity these would not necessarily be prevented by the mere fact that the members of the Objector are State owned or State controlled operators. The problems raised might well be prevented by the anti-abuse policy of the Applicant. In particular the Panel takes into account the Applicant's submission and finds that the Objector has not provided any evidence that the registry policies of the Applicant are insufficient to prevent malicious use of the applied-for gTLD.
- 9.18 It follows that the Objector has failed to prove that the Applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely. To the contrary, there is evidence that the Applicant has proposed instituting effective security protection for user interests.

**(iii) Interference with the core activities of the community**

- 9.19 The Objector submits that the general availability of .LOTTO domain names would confer upon illegal operators the advantage in the eye of unsuspecting consumers of associating their websites with State licensed lotteries which would be detrimental to both licensed operators and internet users.
- 9.20 The Applicant denies that the delegation of the applied-for gTLD to the Applicant would interfere with the core activities of the community invoked by the Objector. Such interference could not be claimed merely because community members use the internet for communication, marketing and distribution of their products and services. Any community could stop the delegation of a gTLD by simply identifying online communication as a core activity. Leaving the requirement to demonstrate a material detriment to the community is largely meaningless. Online communication is not a core activity of State owned or controlled operators of games of chance; most members of the Objector have a long tradition of offering games of chance outside the internet as they have been established long before the appearance of online business models.
- 9.21 In the Panel's view there is no evidence before it that the delegation of the applied-for gTLD to the Applicant would justifiably interfere with core activities of the community as referred to by the Objector. Accordingly the Objector has failed to prove such interference.

**(iv) Dependence of the community represented by the Objector of the DNS for its core activities**

9.22 The Objector does not specifically address this issue.

9.23 The Applicant submits that the community invoked by the Objector ie. the State licensed operators does not depend on the .LOTTO string for its core activities. The Objector has failed to prove that the community members need online communication in order to conduct their business model. It points out that most State owned or controlled lotteries have a long tradition of offering games via phone or mail or international sales agencies insofar as they offer their products and services online they have established websites registered under different TLD's. There is no evidence that consumers wanting to participate in their games of chance had difficulty finding their websites in order to do so.

9.24 There is no evidence to the contrary adduced by the Objector and the Panel finds that the Objector has not succeeded in proving such dependence.

**(v) Nature and extent of concrete or economic damage to the community represented by the Objector**

9.25 The Objector's case is that there is a significant risk that unlicensed and fraudulent businesses will use the .LOTTO extension to associate in the eye of unsuspecting internet users, their business to the legal safeguards provided by government operated or government licensed lotteries. Delegation of .LOTTO as an open TLD would cause harm to the community and more importantly to internet users.

9.26 The Objector submits that the mere rejection of the applied-for gTLD will not exclude any unlicensed or illegal activities operators of games of chance.

9.27 Contrary to the Objector's fear that competitors of the represented community members could make use of their market reputation by using the .LOTTO string the Applicant points out that community members have many possibilities to distinguish themselves from other operators by means of competition and promotion. The Applicant submits that the Objector has not provided any evidence that the use of the gTLD can lead to a consumer confusing different operators. This is because the public does not necessarily associate State owned or controlled organisations with the term "Lotto" or "Loto".

9.28 In paragraph 12 to the Objection that use of .LOTTO domain names will amount to infringements of the Objector's members' trademark rights. The Applicant submits that this is a matter for a Legal Rights Objection. This is the jurisdiction of the World Intellectual Property Organisation Arbitration and Mediation Center (see article 3.2.2.2 of the Guidebook). The alleged infringement of trademark rights is of no relevance to the case at hand.

9.29 The Panel is prepared to accept that there may be a risk of trademark infringement but in the absence of any specific evidence from the Objector it is not in a position to consider this further. The Panel regards trademark infringement as a factor which might establish "*concrete or economic damage to the community represented by the Objector*". However in the absence of specific evidence from the Objector the Panel is unable to make any conclusion in that regard.

9.30 The Applicant also points out that its registry policies effectively prevent infringements of existing trademarks through registration under the applied-for gTLD. The registry policies provide for a so-called "sunrise period" granting trademark holders a possibility of early

registration before opening registration to the public (see section 18(b)(iv) of the registry policies at Annex 3 to the Objection).

9.31 The Panel finds that the Objector has failed to demonstrate concrete or economic damage to the community represented by the Objector as a result of the Applicant's operation of the applied-for gTLD string.

**(vi) Level of certainty for alleged detriment**

9.32 The Objector submits that there is a "*significant risk*" that unlicensed and even fraudulent businesses will use the .LOTTO extension to associate in the eye of unsuspecting internet users, their business with the legal safeguards provided by government operated or government licensed lotteries. Delegation of .LOTTO as an open TLD would cause harm to the community and, more importantly, to internet users.

9.33 To the contrary, the Applicant submits that the Objector has failed to prove a sufficient level or degree of certainty for the alleged detriment. It points out that the appearance of unlicensed or criminal business models within the market for games of chance can never be excluded but there is no evidence that community members will suffer harm simply because of the possibility that such operators may register under the same gTLD.

9.34 The Applicant also submits that it is very likely that at present unlicensed operators or even operators using fraudulent business models have registered under the same gTLD as community members as there are already unlicensed and illegal offers of games of chance present and visible on the internet. There is no indication the reputation of the community members will suffer any harm simply because there is a chance that they register under the same gTLD.

9.35 The Objector submits that there is a significant risk. It does not however produce evidence to support that submission.

9.36 It follows that the Objector has failed to prove a sufficient level of certainty for the alleged detriment.

**10. CONCLUSION**

10.1 The Panel finds:

10.1.1 The Objector has proved that the community invoked by the Objector is a clearly delineated community

10.1.2 The Objector has proved that community opposition to the Application is substantial

10.1.3 The Objector has proved that there is a strong association between the community involved and the applied-for gTLD string;

10.1.4 The Objector has failed to prove that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted.

10.2 Accordingly the Panel finds for the Applicant and the Objection is rejected.

**11. DECISION**

11.1 For the above reasons and according to Art. 21(d) of the Procedure, I hereby render the following Expert Determination:

11.1.1 European State Lotteries and Toto Association's Objection is dismissed;

11.1.2 Applicant AFILIAS LIMITED prevails;

11.1.3 AFILIAS LIMITED's advance payment of costs shall be refunded by the Centre to AFILIAS LIMITED.

Dated: 9/12/2013

Signed: ..........

Clive Duncan Thorne  
Expert

## **ANNEX 2.0**





International Chamber of Commerce

*The world business organization*

International Centre for Expertise - Centre international d'expertise

## **New Generic Top-Level Domain Names ("gTLD") Dispute Resolution Procedure**

### **COMMUNITY OBJECTION TO .LOTTO APPLICATION by European State Lotteries and Toto Association**

#### **References used:**

<b>Name</b>	<b>Abbreviation</b>
Rules for Expertise of the ICC	"Rules"
Appendix III to the ICC Expertise Rules, Schedule of expertise costs for proceedings under the new gTLD dispute resolution procedure	"Appendix III"
ICC Practice Note on the Administration of Cases	"ICC Practice Note"
Attachment to Module 3-New gTLD Dispute Resolution Procedure	"Procedure"
Module 3 of the gTLD Applicant Guidebook	"Guidebook"

ICC International Centre for ADR ☐ Centre international d'ADR de la CCI  
38 Cours Albert 1er, 75008 Paris, France  
Tel +33 (0)1 49 53 30 52 Fax +33 (0)1 49 53 30 49  
E-mail [expertise@iccwbo.org](mailto:expertise@iccwbo.org) Website [www.iccexpertise.org](http://www.iccexpertise.org)

**Identification of the Parties, their Representatives and related entities**

**Objector**

Name	European State Lotteries and Toto Association
Contact person	Bernadette Lobjois (Secretary General)
Address	Contact Information Redacted
City, Country	
Telephone	
Email	

**Objector's Representative(s)**

Name	ALTIUS
Contact person	Philippe Vlaemminck (advocaat) Paul Maeyaert (advocaat) Kristof Neefs (advocaat)
Address	Contact Information Redacted
City, Country	
Telephone	
Email	

A power of attorney is enclosed as **Annex 1**.

**Objector's Contact Address**

Name	ALTIUS
Contact person	Kristof Neefs (advocaat)
Address	Contact Information Redacted
City, Country	
Telephone	
Email	

**Applicant**

Name	Afilias Limited
Contact person	John Kane (Vice President, Corporate Services)
Address	Contact Information Redacted
City, Country	
Telephone	
Email	

**Other Related Entities**

Name	World Lottery Association
Contact person	Jean Jorgensen (Executive Director)
Address	Contact Information Redacted
City, Country	
Telephone	
Email	

World Lottery Association formally endorses this objection (**Annex 2**).

### Disputed gTLD

gTLD Objector objects to:

Name	.LOTTO
Application ID	1-868-7904

### Objection

European State Lotteries and Toto Association (hereinafter referred to as “**European Lotteries**” or the “**Objector**”, [www.european-lotteries.org](http://www.european-lotteries.org)) hereby files a **Community Objection** in accordance with Article 2(e)(iv) of the Procedure because there is substantial opposition to the .LOTTO application in a significant portion of the community to which the string is targeted.

#### **Objector’s Standing to object (Article 3.2.2 of the Guidebook and Article 8 of the Procedure)**

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1. Article 3.2.2.4 of the Guidebook provides that established institutions that have an ongoing relationship with clearly delineated communities have standing to file a Community Objection. European Lotteries holds the view that it meets these requirements.

2. Firstly, European Lotteries is an **established institution**. The association was created in 1983 under Swiss law (**Annex 4**). It is an umbrella organization of National Lotteries operating lotteries, lotto games, sport betting and other games of chance for the public benefit (**Annex 5**).

Its members are organizations that only offer lotteries, lotto and betting services in jurisdictions in which they are licensed by the respective national government. They strictly adhere to national laws and high level consumer protection standards. The greater part of members’ annual sales volume is dedicated to good causes and/or state finances.

European Lotteries has over 70 members based in EU and non-EU countries (**Annex 6 and 7**). As such, the Objector enjoys global recognition as a key player in the representation of licensed lottery operators.

3. Secondly, European Lotteries has an ongoing relationship with a clearly delineated community. The association is governed by a General Assembly composed of all of European Lotteries' members. Daily management is bestowed upon an Executive Committee of 11 Members (**Annex 8**), who are CEO and/or lead management individuals of various Lottery members.

European Lotteries' aims and objectives, as set out in Article 2 of its bylaws (**Annex 5**) are *"to advance the collective interests of its Members and to enhance the capability, common knowledge and status of individual Members"*.

European Lotteries substantially invests in these objectives by, for example, weighing in on policy issues at all European institutions (**Annex 9**) and by providing a forum where its members can exchange information and experience. It also publishes, three times a year, a magazine on the European Lottery industry (**Annex 10**).

Furthermore, European Lotteries has determined and adopted Responsible Gaming Standards to help tackle illegal gambling and related criminal activities (**Annex 11**).

Finally, the Objector is in constant dialogue with organizations that share its goals, such as World Lottery Association. For instance, World Lottery Association – a global member-based organization to advance the interests of State-authorized lotteries<sup>1</sup> – has formally endorsed this objection (**Annex 2**).

4. European Lotteries' sole reason of existence is to further the interests of the community it represents in this objection. In view of the foregoing, European Lotteries holds the view that it meets and exceeds the requirements for standing to object in accordance with Article 3.2.2.4 of the Guidebook.

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<sup>1</sup> See <http://www.world-lotteries.org/> and, for example, **Annex 12**.

**Description of the basis for the Objection**  
**(Article 3.3.1 of the Guidebook and Article 8 of the Procedure)**  
**Factual and Legal Grounds**

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**I. THE STANDARDS**

5. According to Article 3.5.4 of the Guidebook, a Community objection requires that:

- (1) The community invoked by the objector is a clearly delineated community; and
- (2) Community opposition to the application is substantial; and
- (3) There is a strong association between the community invoked and the applied-for gTLD string; and
- (4) The application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted.

**II. CLEARLY DELINEATED COMMUNITY**

6. The Community *directly* represented by European Lotteries in this objection consists of its members. *Indirectly* and through the support of World Lottery Association (**Annex 2**), European Lotteries also files this objection of behalf of World Lottery Association's members.

As set out hereinabove, European Lotteries has members in based in EU and non-EU countries (**Annex 6 and 4**). World Lottery Association's membership is even more geographically diversified and covers Lottery members in Europe, Africa, Asia, Australia, North and South America (**Annex 13**).

The members of the community represented therefore have in common that they are lottery operators that only provide their services in jurisdictions where they are licensed by the government to do so. As such, it is "*clearly delineated*": an undertaking providing lottery services either has a license in all jurisdictions in which it operates, or it does not.

The objection therefore meets the second test of Article 3.5.4 of the Guidebook as European Lotteries represents a clearly delineated community.

### III. SUBSTANTIAL COMMUNITY OPPOSITION

7. Article 3.5.4 of the Guidebook requires that the objector shows that there is substantial opposition to the TLD. The current objection passes this test as a more than significant part of the community of licensed lottery operators clearly opposes the TLD.

For the reasons outlined hereinafter sub paragraphs 9 *et seq.*, European Lotteries, World Lottery Association (**Annex 2**) and their members are strongly opposed to the delegation of .LOTTO. European Lotteries and World Lottery Association are household names in the community represented in this objection.

The mere fact that two of the community's largest umbrella organizations express opposition to the delegation of a TLD that is intrinsically linked to their members' activities should carry much weight in determining substantial opposition in accordance with the Guidebook<sup>2</sup>.

Further to opposition from European Lotteries and World Lottery Association, however, a survey among European Lotteries' members lead to many individual expressions of opposition to the .LOTTO application (**Annex 14**).

In view of these expressions of opposition, the objection passes the test for substantial opposition.

### IV. TARGETING

8. It cannot be contested that the TLD applied for is strongly associated to the community in the sense of Article 3.5.4 of the Guidebook.

First and foremost, the term "LOTTO" (and its alternative spelling LOTO) is associated, in the mind of the general public, with lotteries. That is the case in many languages, including but not limited to English, French, German and Spanish (**Annex 15**). In fact, the word lottery is said to be derived from the Italian word "Lotto" meaning fate (**Annex 15**, see "Early History"). For that reason alone, the requirement of association to the community represented is met.

Further and secondly, the statement of purpose under Section 18(a) of the public portion of the application (**Annex 3**) leaves little doubt as to the requirement of

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<sup>2</sup> According to the Applicant Guidebook V4 Comment Analysis, even opposition from a **single** entity can be substantial in a given case. [http://icannwiki.com/index.php/Community\\_TLD](http://icannwiki.com/index.php/Community_TLD)

association. It clearly lists government-operated lotteries as the primary target audience for the TLD.

Thirdly and finally, several members of European Lotteries organize a national lottery using the term "loto" or "lotto" (**Annex 16**). Many hold national or European Community trade marks comprising the term (**Annex 17**). This further confirms that the relevant public in these jurisdictions will associate the string (and domain names registered under the TLD) to state-licensed lotteries.

In view of the foregoing, there is a clear nexus between the string .LOTTO and state-licensed lotteries, i.e. the community represented in this objection. The third requirement of Article 3.5.4 of the Guidebook is therefore met.

## V. DETRIMENT

9. The final requirement in the Guidebook is that the Objector must show "*that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted.*" The Objector holds the view that such detriment is likely to occur if .LOTTO is delegated.

The applicant – who has no known affiliations to state-operated lotteries – seeks to operate an **open** .LOTTO top-level domain. Consequently, state-licensed lottery operators **as well as unlicensed businesses** would be able to register domain names in .LOTTO. This entails the substantial risk that illegal (i.e. unlicensed) online gambling offerings will also be operated under the domain.

Such offerings would enjoy (without merit) association with the term "lotto" which in turn is associated with the positive qualities of legitimate, licensed lottery offerings. Internet users would be lead to believe that websites offered under the domain originate from licensed operators. Further, such use of the TLD would infringe the trade marks of European Lotteries' members.

The operation of .LOTTO as an open TLD would thus lead to consumer confusion and a negative impact on legitimate lottery businesses and on the values they stand for.

10. In the application documents, the applicant purports that .LOTTO will "*allow*" lottery operators to present their businesses in good light. Under the heading "*How*



.LOTTO adds to the current space", the applicant asserts the following (**Annex 3**, emphasis added):

*"The current TLD space associated with entertainment businesses and their products is not viewed in a particularly good light because of the perceived relationship of online gambling to less-than-scrupulous websites. The .LOTTO TLD will not only open up more options for entertainment companies seeking to establish an Internet identity, but also allow them to create an identity more in line with how they wish to present themselves: as **well-managed businesses** who are **working diligently to help support schools, taxes, economic development, the environment, senior citizen programs, health care and many other social activities.**"*

On "User experience goals", the applicant goes on to say:

*"One of the primary benefits to registrants of participation in the .LOTTO TLD is that they can build clear, easily accessible identities that will facilitate potential clientele to be more likely to find the information they are seeking. This will help **to build confidence and reduce ambiguity for users.**"*

However and importantly, the applicant provides **no safeguards** whatsoever that the TLD will **only** be used by licensed operators so the user confidence referred to would be justified. Quite the contrary: it is proposed to operate .LOTTO as an **open TLD** that is "*generally available to all registrants*" (**Annex 3**, Section 18(b)(iv)).

**11.** It is true that European Lotteries' members are well-managed businesses, whose revenues contribute to society. The latter is a key characteristic of state-licensed lotteries in the EU. In 2011, these mandatory payments amounted to a total of 23.4 billion EUR (2012 ELISE Summary, p.3, **Annex 18**).

At the same time, state-licensed operators adhere to strict standards of responsible gaming, thereby minimizing potential harm on society and, in particular, vulnerable groups.

In many European jurisdictions, lotteries are subject to state monopolies<sup>3</sup>. Such restrictions have merits, especially in the internet environment where there is an increased risk of overspending and addiction by consumers. The Court of Justice of the European Union has confirmed this on several occasions (emphasis added):

*"In addition, because of the lack of direct contact between consumer and operator, games of chance accessible via the internet involve **different and more substantial risks of fraud by operators against consumers** compared with the traditional markets for such games."*<sup>4</sup>

*"It should be noted that, in the same way, the characteristics specific to **the offer of games of chance by the internet may prove to be a source of risks of a different kind and a greater order in the area of consumer protection**, particularly in relation to young persons and those with a propensity for gambling or likely to develop such a propensity, in comparison with traditional markets for such games. Apart from the lack of direct contact between the consumer and the operator, previously referred to, the particular ease and the permanence of access to games offered over the internet and the potentially high volume and frequency of such an international offer, in an environment which is moreover characterised by isolation of the player, anonymity and an absence of social control, constitute **so many factors likely to foster the development of gambling addiction and the related squandering of money, and thus likely to increase the negative social and moral consequences attaching thereto**, as underlined by consistent case-law."*<sup>5</sup>

In a report of European Parliament on online gambling, it is further acknowledged that "online gambling, if not properly regulated, may involve a greater risk of addiction than traditional physical, location-based gambling, owing inter alia to increased ease of access and the absence of social control" and that "consumers must be educated about the potential harm of online gambling and protected against dangers in this area, especially addiction, fraud, scams and underage gambling"<sup>6</sup>.

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<sup>3</sup> In some jurisdictions, such as many Islamic nations, lotteries and gambling are *per se* illegal. The Islamic Republic of Iran has, for that matter, issued a GAC early warning (albeit after the early warning deadline had passed) against the delegation of .LOTTO (**Annex 19**).

<sup>4</sup> CJEU 8 September 2009, C-42/07, *Liga Portuguesa*, §70, **Annex 20**. Confirmed in CJEU 3 June 2010, C-203/08, *Betfair*, §34, **Annex 21**.

<sup>5</sup> CJEU 8 September 2010, C-46/08, *Carmen Media Group*, §103, **Annex 22**.

<sup>6</sup> Report of 14 October 2011 on online gambling in the Internal Market, 2011/2084/INI, **Annex 23**.

Against this backdrop, it is clear that regulatory restrictions on internet gambling are justified. Undertakings having received a state license to operate a lottery provide legal and business safeguards for responsible gaming.

In the jurisdictions in which European Lotteries' members operate, the term "lotto" (and/or "loto") is directly associated to these positive qualities, standards and safeguards (see also paragraph 8 of this Objection).

**12.** Websites operated under the .LOTTO TLD would therefore be associated, in the eyes of the public, with such positive qualities, standards and safeguards.

This entails the risk, because the applicant proposes to operate an **open TLD**, that unlicensed and even fraudulent businesses will use the .LOTTO extension to associate, in the eye of unsuspecting internet users, their business to the legal safeguards provided by government-operated or government-licensed lotteries.

In so doing, these unlicensed operators would illegitimately ride on the coattails of the carefully developed reputation of state lotteries. Further still, such use of .LOTTO domain names would amount to infringements of European Lotteries' members' trade mark rights (**Annex 17**).

To be clear, the Objector does not allege that the applicant is to blame for unlicensed offerings and fraud in online gambling. The Objector is aware that, even in the absence of .LOTTO, illegal gambling offerings will be available online.

However, the general availability of .LOTTO domain names would confer such illegal operators the advantage of associating their website to state-licensed lotteries in the eye of unsuspecting consumers. This would be detrimental to both the licensed operators and internet users.

In those cases, the applicant's stated objective "*to foster a sense of professionalism and trust among customers*" will backfire by providing illegal business an added advantage to the detriment of consumers and, ultimately, state-licensed operators.

**13.** In this regard, European Lotteries regrets that the applicant does not refer to operating licensed businesses as a requirement to register and maintain a .LOTTO domain name. There is no dedicated registration and use policy.

Apart from a boiler-plate and vague prohibition of "*illegal or fraudulent*" actions, the .LOTTO Anti-Abuse Policy contains no remedy for the operation of non-licensed

lotteries from the TLD (**Annex 3**, Section 28). The Section on "*Registrant pre-verification and authentication*" does not refer to the requirement of a license either.

In general, the application documents fail to address the issue of the requirement of a license to operate lotteries in many jurisdictions and the applicant has not contacted World Lottery Association or European Lotteries to inquire after regulatory requirements.

This is striking and it further strengthens European Lotteries' concerns that the applicant is ill-equipped to operate a top-level domain that clearly and undeniably relates to the regulated activities of its members; let alone to prevent consumer harm and to promote socially responsible gaming.

**14.** Against this backdrop, there is a **significant risk** that unlicensed and even fraudulent businesses will use the .LOTTO extension to associate, in the eye of unsuspecting internet users, their business to the legal safeguards provided by government-operated or government-licensed lotteries. Delegation of .LOTTO as an open TLD would cause harm to the community and, more importantly, to internet users.

#### **Remedies Requested**

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In view of all the foregoing, the Objector respectfully requests that the application for the operation of .LOTTO is **denied**.

#### **Communication (Article 6(a) of the Procedure and Article 1 of the ICC Practice Note)**

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A copy of this Objection is transmitted to the Applicant on 13 March 2013 by e-mail to [jkane@afilias.info](mailto:jkane@afilias.info) and to [mcllem@afilias.info](mailto:mcllem@afilias.info) (primary and secondary contact listed in the public portion of the application).

A copy of this Objection is transmitted to ICANN on 13 March 2013 by e-mail to [newgtld@icann.org](mailto:newgtld@icann.org)

**Filing Fee (Article 1 Appendix III to the Rules and Article 8(c) of the Procedure)**

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As required, Euros 5 000 were paid to ICC on **13 March 2013**. Evidence of payment is enclosed as **Annex 24**

**Description of the Annexes filed with the Objection (Article 8(b) of the Procedure)**

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- (1) Power of attorney
- (2) Endorsement of objection by World Lottery Association
- (3) Public Portion of .LOTTO gTLD application
- (4) Extract of [www.european-lotteries.org](http://www.european-lotteries.org) re the history of European Lotteries
- (5) Bylaws of European Lotteries
- (6) EU Members of European Lotteries
- (7) Non-EU Members of European Lotteries
- (8) Extract of [www.european-lotteries.org](http://www.european-lotteries.org) on the organization
- (9) Examples of policy initiatives by European Lotteries
- (10) Sample issue of EL Magazine (December 2012 issue)
- (11) European Responsible Gaming Standards (Version 2 May 2012)
- (12) Information on World Lottery Association
- (13) List of members of World Lottery Association
- (14) Individual expressions of oppositions by European Lotteries' members:
  - a. Sazka Sazkova Kancelar (Czech Republic)
  - b. Sociedad Estatal Loterias y Apuestas del Estado (Spain)
  - c. Staatliche Lotterieverwaltung Bayern (Germany)
  - d. La Française des Jeux (France)
  - e. Veikkaus Oy (Finland)
  - f. Bremer Toto und Lotto GmbH (Germany)
  - g. SISAL S.p.A. (Italy)
  - h. An Post National Lottery Company (Ireland)
  - i. Eesti Loto AS (Estonia)
  - j. Saarland-Sporttoto GmbH (Germany)
  - k. Lotto Niedersachsen (Germany)
  - l. Deutsche Klassenlotterie Berlin AoR (Germany)
  - m. The Danish Class Lottery A/S (Denmark)
  - n. Happraetti Haskola Islands (Iceland)

- o. Swisslos Interkantonale Landeslotterie (Switzerland)
  - p. Szerencsejatek Zrt (Hungary)
  - q. TIPOS (Slovak Republic)
  - r. Ukrainian National Lottery (Ukraine)
  - s. Turkish National Lottery Administration (Turkey)
  - t. Svenska Spel AB (Sweden)
  - u. Société de la Loterie de la Romande (Switzerland)
  - v. Westdeutsche Lotterie GmbH & Co (Germany)
  - w. Cyprus Government Lottery (Cyprus)
  - x. Nationale Loterij (Belgium)
  - y. Organizacion Nacional de Ciegos Espanoles (Spain)
  - z. Totalizator Sportowy Sp. (Poland)
  - aa. Sachsische Lotto GmbH (Germany)
  - bb. Lotterie-Treuhandgesellschaft Thuringen (Germany)
  - cc. Land Brandenburg Lotto (Germany)
  - dd. Lotto-Toto Sachsen-Anhalt (Germany)
  - ee. Lotto Rheinland-Pfalz (Germany)
  - ff. Norsk Tipping A/S (Norway)
  - gg. Ural Loto (Russia)
  - hh. Loteria Moldovei SA (Moldova)
  - ii. Stichting de Nationale Sporttotalisator (de Lotto) (The Netherlands)
  - jj. Staatliche Toto-Lotto Baden-Württemberg (Germany)
  - kk. National Lottery of Macedonia (Macedonia)
  - ll. Hrvatska Lutrija (Croatia)
  - mm. Loteria de Catalunya (Spain)
  - nn. Loterija Slovenije and Sportna Loterija (Slovenia)
  - oo. Lotto Hamburg GmbH (Germany)
  - pp. Maltco Lotteries (Malta)
  - qq. Santa Casa da Misericordia de Lisboa (Portugal)
  - rr. NordwestLotto Schleswig-Holstein (Germany)
  - ss. OPAP S.A. (Greece)
  - tt. Camelot UK Lotteries Limited (United Kingdom)
- (15) Association of LOTTO/LOTO to lotteries
- a. Wikipedia extract (English) re LOTTO
  - b. Wikipedia extract (French) re LOTO
  - c. Wikipedia extract (German) re LOTTO
  - d. Wikipedia extract (Swedish) re LOTTO

e. Wikipedia extract (Spanish) re LOTO


- (16) Examples of lotteries using the term 'lotto' or 'loto' for state-licensed lotteries
- (17) Examples of EL member trade marks with respect to LOTTO or LOTO
- (18) 2011 ELISE Summary
- (19) Iran GAC Early Warning
- (20) CJEU 8 September 2009, C-42/07, *Liga Portuguesa*
- (21) CJEU 3 June 2010, C-203/08, *Betfair*
- (22) CJEU 8 September 2010, C-46/08, *Carmen Media Group*
- (23) Report of 14 October 2011 on online gambling, 2011/2084/INI
- (24) Proof of payment of 5000 EUR filing fee

Done in Brussels, 13 March 2013,


On behalf of European State Lotteries and Toto Association,  
Its counsels,



Kristof Neefs  
Advocaat



Paul Maeyaert  
Advocaat



Philippe Vlaemminck  
Advocaat



## **ANNEX 2.1**

## GENERAL POWER OF ATTORNEY

The undersigned, for and on behalf of the ASBL European State Lotteries and Toto Association, (the European Lotteries or "EL") ([www.european-lotteries.org](http://www.european-lotteries.org)), with registered offices at Avenu de Béthusy 36, 1005 Lausanne, Switzerland, hereby confers a general mandate upon ALTIUS law firm, in particular Mr. Kristof Neefs and Mr. Philippe Vlaemminck, acting either solely or together and with power to make total or partial substitutions, to perform any useful act, including the signing of any documents on behalf of EL, in the framework of filing oppositions, complaints and supporting evidence in view of preventing undertakings and registered companies from applying the name .LOTTO as a generic top level domain (gTLD) in view of the specific procedures set up to that end by ICANN.

## MANDAT GENERAL

*Le soussigné, agissant au nom et pour le compte de la ASBL Association Européenne des Loteries et Totos d'Etat (the European Lotteries ou "EL") ([www.european-lotteries.org](http://www.european-lotteries.org)), ayant son siège à Avenu de Béthusy 36, 1005 Lausanne, Suisse, confère par la présente un mandat général à ses conseils ALTIUS, en particulier Me Kristof Neefs et Me Philippe Vlaemminck, agissant soit conjointement soit séparément et ayant le pouvoir de se faire substituer entièrement ou partiellement, aux fins d'accomplir tous actes utiles, en ce compris la signature de quelconques documents au nom et pour le compte de EL, dans le cadre du dépôt des oppositions et plaintes dirigées contre la demande des entreprises ou société du nom .LOTTO comme domaine générique de premier niveau (gTLD), suivant les procédures spécifiques prévues par ICANN.*

For and on behalf of EL.

Au nom et pour le compte de EL :

Name/Nom :

European State Lotteries  
and Toto Association  
36, av. de Béthusy  
CH - 1005 Lausanne / Switzerland

Capacity/Qualité :

PRESIDENT

Signature/Signature :

Date: Lausanne, le 11 mars 2013

Annex: proof of identity and capacity

General Secretariat  
Avenue de Béthusy 36  
CH-1005 Lausanne  
T +41-21-311 30 25  
F +41-21-312 30 11  
[info@european-lotteries.org](mailto:info@european-lotteries.org)  
[www.european-lotteries.org](http://www.european-lotteries.org)

## **ANNEX 2.2**

## LETTER OF ENDORSEMENT

The undersigned, for and on behalf of the World Lottery Association ("WLA") ([www.world-lotteries.org](http://www.world-lotteries.org)), an association with registered offices at Lange Gasse 20, 4002 Basel, Switzerland,

hereby declares that:

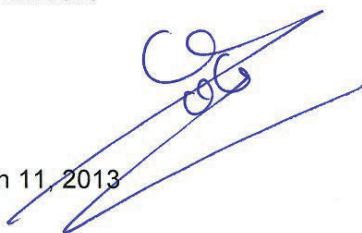
- it is aware of the actions being undertaken by the ASBL European State Lotteries and Toto Association, (the European Lotteries or "EL") ([www.european-lotteries.org](http://www.european-lotteries.org)), with registered offices at Avenu de Béthusy 36, 1005 Lausanne, Switzerland, to prevent undertakings and registered companies from applying the name .LOTTO as a generic top level domain (gTLD) in view of the specific procedures set up to that end by ICANN.
- it fully endorses those actions and supports the underlying cause of action and the view taken by EL in those procedures
- for the same reasons as those put forward by EL, shares the view that .LOTTO should not be registered as a generic top level domain (gTLD).

For and on behalf of WLA.

Name: Jean-Luc Moner-Banet

Capacity: President

Signature:



Date: March 11, 2013

Annex: proof of identity and capacity

## **ANNEX 2.3**



# New gTLD Application Submitted to ICANN by: Afilias Limited

String: LOTTO

Originally Posted: 13 June 2012

Application ID: 1-868-7904

## Applicant Information

### 1. Full legal name

Afilias Limited

### 2. Address of the principal place of business

2 La Touche House  
IFSC  
Dublin 1  
IE

### 3. Phone number

Contact information Redacted

## 4. Fax number

Contact information Redacted

## 5. If applicable, website or URL

# Primary Contact

### 6(a). Name

John Kane

### 6(b). Title

Vice President, Corporate Services

### 6(c). Address

### 6(d). Phone Number

Contact information Redacted

### 6(e). Fax Number

## 6(f). Email Address

Contact Information Redacted

# Secondary Contact

## 7(a). Name

Melinda Clem

## 7(b). Title

Consultant

## 7(c). Address

## 7(d). Phone Number

Contact Information  
Redacted

## 7(e). Fax Number

## 7(f). Email Address

Contact Information Redacted



# Proof of Legal Establishment

## 8(a). Legal form of the Applicant

Irish Company Limited by Shares

## 8(b). State the specific national or other jurisdiction that defines the type of entity identified in 8(a).

Republic of Ireland

## 8(c). Attach evidence of the applicant's establishment.

Attachments are not displayed on this form.

## 9(a). If applying company is publicly traded, provide the exchange and symbol.

## 9(b). If the applying entity is a subsidiary, provide the parent company.

## 9(c). If the applying entity is a joint venture, list all joint venture partners.

# Applicant Background

## 11(a). Name(s) and position(s) of all directors

Henry "Hal" Lubsen	Board Member
Jonathan Robinson	Board Member
Keyon Stubbs	Board Member
M. Scott Hemphill	Board Member
Michael Heller	Board Member
Moshe Fogel	Board Member
Philipp Grabensee	Chairman of the Board
Thomas Morz	Board Member
Thomas Wade	Board Member

## 11(b). Name(s) and position(s) of all officers and partners

Cedarampattu "Ram" Mohan	Executive Vice President and Chief Technology Officer
Henry "Hal" Lubsen	Chief Executive Officer
John L. Kane	Vice President Corporate Services
M. Scott Hemphill	Vice President and General Counsel
Roland LaPlante	Senior Vice President and Chief Marketing Officer
Steve Heflin	Vice President Sales
Steven Pack	Compliance Officer and Assistant Secretary
Thomas Wade	Chief Financial Officer

## 11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares

## 11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility

# Applied-for gTLD string

**13. Provide the applied-for gTLD string. If an IDN, provide the U-label.**

LOTTO

**14(a). If an IDN, provide the A-label (beginning with "xn--").**

**14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.**

**14(c). If an IDN, provide the language of the label (in English).**

**14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).**

**14(d). If an IDN, provide the script of the label (in English).**

**14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).**

**14(e). If an IDN, list all code points contained in the U-label according to Unicode form.**

**15(a). If an IDN, Attach IDN Tables for the proposed registry.**

Attachments are not displayed on this form.

**15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.**

**15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.**

**16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.**

Afilias anticipates the introduction of this TLD without operational or rendering problems. Based on a decade of experience launching and operating new TLDs, Afilias, the back-end provider of registry services for this TLD, is confident the launch and operation of this TLD presents no known challenges. The rationale for this opinion includes:

- The string is not complex and is represented in standard ASCII characters and follows relevant technical, operational and policy standards;
- The string length is within lengths currently supported in the root and by ubiquitous Internet programs such as web browsers and mail applications;
- There are no new standards required for the introduction of this TLD;
- No onerous requirements are being made on registrars, registrants or Internet users, and;
- The existing secure, stable and reliable Afilias SRS, DNS, WHOIS and supporting systems and staff are amply provisioned and prepared to meet the needs of this TLD.

## 17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (<http://www.langsci.ucl.ac.uk/ipa/>).

## Mission/Purpose

### 18(a). Describe the mission/purpose of your proposed gTLD.

#### Mission and purpose

The mission of the .LOTTO TLD is to offer entertainment businesses that provide games and lotteries to their customers a namespace to establish meaningful and relevant identities to promote their services and offerings. The primary purpose is to foster a sense of professionalism and trust among customers, other businesses and organizations that are part of the lottery industry.

We anticipate a variety of reasons that businesses and individuals would want to acquire a domain under the .LOTTO TLD including:

- Entertainment businesses may want to create a professional web presence including online stores or shopping experiences, or use blogs, wikis and file sharing sites to support their merchandising, retailing efforts and business goals related to offered lotteries and other games of chance.
- Businesses may wish to use .LOTTO domain to create websites to support or announce planned business expansions or changes of venue, and begin marketing efforts, research or tests.
- "It is estimated that over two million (people) play the lottery each week." (source: [www.ask.com](http://www.ask.com)). "During physical year 2010, U.S. lottery sales totaled \$58 billion (\$US)." (source: North American Association of State and Provincial Lotteries). These numbers represent a substantial number of lottery players around the world and, thusly, a huge potential target audience for this domain.
- There are government-operated lotteries in every Canadian province, 43 U.S. states, the District of Columbia, Mexico, Puerto Rico, and the U.S. Virgin Islands. In the rest of the world, there are at least 100 countries with publicly-operated lotteries. They are all operated in one of three ways: by national, state or provincial, or city governments.

We anticipate capturing a small number of the government-operated lotteries in the first three years who will quickly realize the intrinsic value of the .LOTTO TLD. Therefore, we forecast having approximately 5,000 Domains Under Management (DUMs) by the third year of operation. Our financial responses in questions #45 through #50 go into detail on our funding, cost and revenue projections.

### 18(b). How do you expect that your proposed gTLD will

## benefit registrants, Internet users, and others?

Afilias will create an open and responsible TLD that will be recognized throughout the industry as the model for a trusted partner.

### i. General goals.

Afilias will launch and sustain .LOTTO to support the needs of lottery stakeholders. Afilias will design and position the .LOTTO TLD to be known as one of the premiere resources for lottery information on the Internet. The company will engage in marketing and branding, such as logo design and website development, as well as outreach and marketing support to registrars to establish this idea in the minds of the public. .LOTTO will be designed to be user friendly, easy to use, interesting, and entertaining. Afilias plans to invest in a launch of the new TLD, complete with media outreach, PR campaigns and social media programs, in order to attract key registrars to register the first waves of .LOTTO registrants.

### ii. How .LOTTO adds to the current space

The current TLD space associated with entertainment businesses and their products is not viewed in a particularly good light because of the perceived relationship of online gambling to less-than-scrupulous websites.

The .LOTTO TLD will not only open up more options for entertainment companies seeking to establish an Internet identity, but also allow them to create an identity more in line with how they wish to present themselves: as well-managed businesses who are working diligently to help support schools, taxes, economic development, the environment, senior citizen programs, health care and many other social activities.

### iii. User experience goals

One of the primary benefits to registrants of participation in the .LOTTO TLD is that they can build clear, easily accessible identities that will facilitate potential clientele to be more likely to find the information they are seeking. This will help to build confidence and reduce ambiguity for users.

### iv. Registry policies

.LOTTO will be an open TLD, generally available to all registrants (except in the Sunrise period).

In general, domains will be offered for periods of one to ten years, but no greater than ten years. Initial registrations made in the Sunrise period may have a minimum number of years required. For example, there may be a policy that all Sunrise names must be registered for an initial term of at least five years.

The roll-out of our TLD is anticipated to feature the following phases:

- Reservation of reserved names and premium names, which will be distributed through special mechanisms (detailed below).
- Sunrise – the required period for trademark owners to secure their domains before availability to the general public. This phase will feature applications for domain strings, verification of trademarks via Trademark Clearinghouse and a trademark verification agent, auctions between qualified parties who wish to secure the same string, and a Trademark Claims Service.
- General Availability period – real-time registrations, made on a first-come first-served basis. Trademark Claims Service will be in use at least for the first

60 days after General Availability applications open.

The registration of domain names in the .LOTTO TLD will follow the standard practices, procedures and policies Afiliias, the back-end provider of registry services, currently has in place. This includes the following:

- Domain registration policies (for example, grace periods, transfer policies, etc.) are defined in response #27.
- Abuse prevention tools and policies, for example, measures to promote WHOIS accuracy and efforts to reduce phishing and pharming, are discussed in detail in our response #28.
- Rights protection mechanisms and dispute resolution mechanism policies (for example, UDRP, URS) are detailed in #29.

Other detailed policies for this domain include policies for reserved names.

#### Reserved names

##### Registry reserved names

We will reserve the following classes of domain names, which will not be made generally available to registrants via the Sunrise or subsequent periods:

- All of the reserved names required in Specification 5 of the new gTLD Registry Agreement;
- The geographic names required in Specification 5 of the new gTLD Registry Agreement, and may be released to the extent that Registry Operator reaches agreement with the government and country-code manager;
- The registry operator's own name and variations thereof, and registry operations names (such as registry.tld, and www.tld), for internal use;
- Names related to ICANN and Internet standards bodies (iana.tld, ietf.tld, w3c.tld, etc.), and may be released to the extent that Registry Operator reaches agreement with ICANN.

The list of reserved names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know which names have been set aside.

#### Premium names

The registry will also designate a set of premium domain names, set aside for distribution via special mechanisms. The list of premium names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know that these names are not available. Premium names may be distributed via mechanisms such as requests for proposals, contests, direct sales, and auctions.

For the auctioning of premium names, we intend to contract with an established auction provider that has successfully conducted domain auctions. This will ensure that there is a tested, trustworthy technical platform for the auctions, auditable records, and reliable collection mechanisms. With our chosen auction provider, we will create and post policies and procedures that ensure clear, fair, and ethical auctions. As an example of such a policy, all employees of the registry operator and its contractors will be strictly prohibited from bidding in auctions for domains in the TLD. We expect a comprehensive and robust set of auction rules to cover possible scenarios, such as how domains will be awarded if the winning bidder does not make payment.

#### v. Privacy and confidential information protection

As per the New gTLD Registry Agreement, we will make domain contact data (and other fields) freely and publicly available via a Web-based WHOIS server. This default set of fields includes the mandatory publication of registrant data. Our

Registry-Registrar Agreement will require that registrants consent to this publication.

We shall notify each of our registrars regarding the purposes for which data about any identified or identifiable natural person ("Personal Data") submitted to the Registry Operator by such registrar is collected and used, and the intended recipients (or categories of recipients) of such Personal Data (the data in question is essentially the registrant and contact data required to be published in the WHOIS). We will require each registrar to obtain the consent of each registrant in the TLD for the collection and use of such Personal Data. The policies will be posted publicly on our TLD web site. As the registry operator, we shall not use or authorize the use of Personal Data in any way that is incompatible with the notice provided to registrars.

Our privacy and data use policies are as follows:

- As registry operator, we do not plan on selling bulk WHOIS data. We will not sell contact data in any way. We will not allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations.
- We may use registration data in the aggregate for marketing purposes.
- DNS query data will never be sold in a way that is personally identifiable.
- We may from time to time use the demographic data collected for statistical analysis, provided that this analysis will not disclose individual Personal Data and provided that such use is compatible with the notice provided to registrars regarding the purpose and procedures for such use.

As the registry operator we shall take significant steps to protect Personal Data collected from registrars from loss, misuse, unauthorized disclosure, alteration, or destruction. In our responses to Question 30 ("Security Policy") and Question 38 ("Escrow") we detail the security policies and procedures we will use to protect the registry system and the data contained therein from unauthorized access and loss.

Please see our response to Question 26 ("WHOIS") regarding "searchable WHOIS" and rate-limiting. That section contains details about how we will limit the mining of WHOIS data by spammers and other parties who abuse access to the WHOIS.

In order to acquire and maintain accreditation for our TLD, we will require registrars to adhere to certain information technology policies designed to help protect registrant data. These will include standards for access to the registry system and password management protocols. Our response to Question 30, "Security Policy" provides details of implementation.

We will allow the use of proxy and privacy services, which can protect the personal data of registrants from spammers and other parties that mine zone files and WHOIS data. We are aware that there are parties who may use privacy services to protect their free speech rights, or to avoid religious or political persecution.

## **18(c). What operating rules will you adopt to eliminate or minimize social costs?**

Afilias has adopted the above-mentioned and other policies to ensure fair and equitable access and cost structures to the Internet community, including:

- no new burdens placed on the Internet community to resolve name disputes
- utilization of standard registration practices and policies (as detailed in



responses to questions #27, #28, #29)

- protection of trademarks at launch and on-going operations (as detailed in the response to question #29)
- fair and reasonable wholesale prices
- fair and equitable treatment of registrars

As per the ICANN Registry Agreement, we will use only ICANN-accredited registrars, and will provide non-discriminatory access to registry services to those registrars.

#### Pricing Policies and Commitments

Pricing for domain names at General Availability will be \$500 per domain year for the first year. Applicant reserves the right to reduce this pricing for promotional purposes in a manner available to all accredited registrars. Registry Operator reserves the right to work with ICANN to initiate an increase in the wholesale price of domains if required. Registry Operator will provide reasonable notice to the registrars of any approved price increase.

## Community-based Designation

### 19. Is the application for a community-based TLD?

No

**20(a). Provide the name and full description of the community that the applicant is committing to serve.**

**20(b). Explain the applicant's relationship to the community identified in 20(a).**

**20(c). Provide a description of the community-based purpose of the applied-for gTLD.**

**20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).**

**20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.**

**20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## Geographic Names

**21(a). Is the application for a geographic name?**

No

## Protection of Geographic Names

**22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.**

We will protect names with national or geographic significance by reserving the country and territory names at the second level and at all other levels within the TLD, as per the requirements in the New TLD Registry Agreement (Specification 5,

paragraph 5).

We will employ a series of rules to translate the geographical names required to be reserved by Specification 5, paragraph 5 to a form consistent with the "host names" format used in domain names.

Considering the Governmental Advisory Committee (GAC) advice "Principles regarding new gTLDs", these domains will be blocked, at no cost to governments, public authorities, or IGOs, before the TLD is introduced (Sunrise), so that no parties may apply for them. We will publish a list of these names before Sunrise, so our registrars and their prospective applicants can be aware that these names are reserved.

We will define a procedure so that governments can request the above reserved domain(s) if they would like to take possession of them. This procedure will be based on existing methodology developed for the release of country names in the .INFO TLD. For example, we will require a written request from the country's GAC representative, or a written request from the country's relevant Ministry or Department. We will allow the designated beneficiary (the Registrant) to register the name, with an accredited Afiliias Registrar, possibly using an authorization number transmitted directly to the designated beneficiary in the country concerned.

As defined by Specification 5, paragraph 5, such geographic domains may be released to the extent that Registry Operator reaches agreement with the applicable government(s). Registry operator will work with respective GAC representatives of the country's relevant Ministry of Department to obtain their release of the names to the Registry Operator.

If internationalized domains names (IDNs) are introduced in the TLD in the future, we will also reserve the IDN versions of the country names in the relevant script(s) before IDNs become available to the public. If we find it advisable and practical, we will confer with relevant language authorities so that we can reserve the IDN domains properly along with their variants.

Regarding GAC advice regarding second-level domains not specified via Specification 5, paragraph 5: All domains awarded to registrants are subject to the Uniform Domain Name Dispute Resolution Policy (UDRP), and to any properly-situated court proceeding. We will ensure appropriate procedures to allow governments, public authorities or IGO's to challenge abuses of names with national or geographic significance at the second level. In its registry-registrar agreement, and flowing down to registrar-registrant agreements, the registry operator will institute a provision to suspend domains names in the event of a dispute. We may exercise that right in the case of a dispute over a geographic name.

## Registry Services

### **23. Provide name and full description of all the Registry Services to be provided.**

Afiliias has more experience successfully applying to ICANN and launching new TLDs

than any other provider. Afilias is the ICANN-contracted registry operator of the .INFO and .MOBI TLDs, and Afilias is the back-end registry services provider for other ICANN TLDs including .ORG, .ASIA, .AERO, and .XXX.

Registry services for this TLD will be performed by Afilias in the same responsible manner used to support 16 top level domains today. Afilias supports more ICANN-contracted TLDs (6) than any other provider currently. Afilias' primary corporate mission is to deliver secure, stable and reliable registry services. This TLD will utilize an existing, proven team and platform for registry services with:

- A stable and secure, state-of-the-art, EPP-based SRS with ample storage capacity, data security provisions and scalability that is proven with registrars who account for over 95% of all gTLD domain name registration activity (over 375 registrars);
- A reliable, 100% available DNS service (zone file generation, publication and dissemination) tested to withstand severe DDoS attacks and dramatic growth in Internet use;
- A WHOIS service that is flexible and standards compliant, with search capabilities to address both registrar and end-user needs; includes consideration for evolving standards, such as RESTful, or draft-kucherawy-wierds;
- Experience introducing IDNs in the following languages: German (DE), Spanish (ES), Polish (PL), Swedish (SV), Danish (DA), Hungarian (HU), Icelandic (IS), Latvian (LV), Lithuanian (LT), Korean (KO), Simplified and Traditional Chinese (CN), Devanagari (HI-DEVA), Russian (RU), Belarusian (BE), Ukrainian (UK), Bosnian (BS), Serbian (SR), Macedonian (MK) and Bulgarian (BG) across the TLDs it serves;
- A registry platform that is both IPv6 and DNSSEC enabled;
- An experienced, respected team of professionals active in standards development of innovative services such as DNSSEC and IDN support;
- Methods to limit domain abuse, remove outdated and inaccurate data, and ensure the integrity of the SRS, and;
- Customer support and reporting capabilities to meet financial and administrative needs, e.g., 24x7 call center support, integration support, billing, and daily, weekly, and monthly reporting.

Afilias will support this TLD as the registry operator, leveraging a proven registry infrastructure that is fully operational, staffed with professionals, massively provisioned, and immediately ready to launch and maintain this TLD.

The below response includes a description of the registry services to be provided for this TLD, additional services provided to support registry operations, and an overview of Afilias' approach to registry management.

#### Registry services to be provided

To support this TLD, Afilias will offer the following registry services, all in accordance with relevant technical standards and policies:

- Receipt of data from registrars concerning registration for domain names and nameservers, and provision to registrars of status information relating to the EPP-based domain services for registration, queries, updates, transfers, renewals, and other domain management functions. Please see our responses to questions #24, #25, and #27 for full details, which we request be incorporated here by reference.
- Operation of the registry DNS servers: The Afilias DNS system, run and managed by Afilias, is a massively provisioned DNS infrastructure that utilizes among the most sophisticated DNS architecture, hardware, software and redundant design created. Afilias' industry-leading system works in a seamless way to incorporate nameservers from any number of other secondary DNS service vendors. Please see our response to question #35 for full details, which we request be incorporated here by reference.
- Dissemination of TLD zone files: Afilias' distinctive architecture allows for real-time updates and maximum stability for zone file generation, publication and

dissemination. Please see our response to question #34 for full details, which we request be incorporated here by reference.

- Dissemination of contact or other information concerning domain registrations: A port 43 WHOIS service with basic and expanded search capabilities with requisite measures to prevent abuse. Please see our response to question #26 for full details, which we request be incorporated here by reference.
- Internationalized Domain Names (IDNs): Ability to support all protocol valid Unicode characters at every level of the TLD, including alphabetic, ideographic and right-to-left scripts, in conformance with the ICANN IDN Guidelines. Please see our response to question #44 for full details, which we request be incorporated here by reference.
- DNS Security Extensions (DNSSEC): A fully DNSSEC-enabled registry, with a stable and efficient means of signing and managing zones. This includes the ability to safeguard keys and manage keys completely. Please see our response to question #43 for full details, which we request be incorporated here by reference.

Each service will meet or exceed the contract service level agreement. All registry services for this TLD will be provided in a standards-compliant manner.

#### Security

Afilias addresses security in every significant aspect - physical, data and network as well as process. Afilias' approach to security permeates every aspect of the registry services provided. A dedicated security function exists within the company to continually identify existing and potential threats, and to put in place comprehensive mitigation plans for each identified threat. In addition, a rapid security response plan exists to respond comprehensively to unknown or unidentified threats. The specific threats and Afilias mitigation plans are defined in our response to question #30(b); please see that response for complete information. In short, Afilias is committed to ensuring the confidentiality, integrity, and availability of all information.

#### New registry services

No new registry services are planned for the launch of this TLD.

#### Additional services to support registry operation

Numerous supporting services and functions facilitate effective management of the TLD. These support services are also supported by Afilias, including:

- Customer support: 24x7 live phone and e-mail support for customers to address any access, update or other issues they may encounter. This includes assisting the customer identification of the problem as well as solving it. Customers include registrars and the registry operator, but not registrants except in unusual circumstances. Customers have access to a web-based portal for a rapid and transparent view of the status of pending issues.
- Financial services: billing and account reconciliation for all registry services according to pricing established in respective agreements.

Reporting is an important component of supporting registry operations. Afilias will provide reporting to the registry operator and registrars, and financial reporting.

#### Reporting provided to registry operator

Afilias reporting provides an extensive suite of reports, including daily, weekly and monthly reports with data at the transaction level that enable us to track and reconcile at whatever level of detail preferred. Afilias provides the exact data required by ICANN in the required format to enable the registry operator to meet its technical reporting requirements to ICANN.

In addition, Afiliias offers access to a data warehouse capability that will enable near real-time data to be available 24x7. Afiliias' data warehouse capability enables drill-down analytics all the way to the transaction level.

#### Reporting available to registrars

Afiliias provides an extensive suite of reporting to registrars and has been doing so in an exemplary manner for more than ten years. Specifically, Afiliias provides daily, weekly and monthly reports with detail at the transaction level to enable registrars to track and reconcile at whatever level of detail they prefer.

Reports are provided in standard formats, facilitating import for use by virtually any registrar analytical tool. Registrar reports are available for download via a secure administrative interface. A given registrar will only have access to its own reports. These include the following:

- Daily Reports: Transaction Report, Billable Transactions Report, and Transfer Reports;
- Weekly: Domain Status and Nameserver Report, Weekly Nameserver Report, Domains Hosted by Nameserver Weekly Report, and;
- Monthly: Billing Report and Monthly Expiring Domains Report.

Weekly registrar reports are maintained for each registrar for four weeks. Weekly reports older than four weeks will be archived for a period of six months, after which they will be deleted.

#### Financial reporting

Registrar account balances are updated real-time when payments and withdrawals are posted to the registrars' accounts. In addition, the registrar account balances are updated as and when they perform billable transactions at the registry level.

Afiliias provides Deposit/Withdrawal Reports that are updated periodically to reflect payments received or credits and withdrawals posted to the registrar accounts.

The following reports are also available: a) Daily Billable Transaction Report, containing details of all the billable transactions performed by all the registrars in the SRS, b) daily e-mail reports containing the number of domains in the registry and a summary of the number and types of billable transactions performed by the registrars, and c) registry operator versions of most registrar reports (for example, a daily Transfer Report that details all transfer activity between all of the registrars in the SRS).

#### Afiliias approach to registry support

Afiliias is dedicated to managing the technical operations and support of this TLD in a secure, stable and reliable manner. Afiliias has reviewed specific needs and objectives of this TLD. The resulting comprehensive plans are illustrated in technical responses #24-44. Afiliias has provided financial responses for this application which demonstrate cost and technology consistent with the size and objectives of this TLD.

Afiliias is the registry services provider for this and several other TLD applications. Over the past 11 years of providing services for gTLD and ccTLDs, Afiliias has accumulated experience about resourcing levels necessary to provide high quality services with conformance to strict service requirements. Afiliias currently supports over 20 million domain names, spread across 16 TLDs, with over 400 accredited registrars.

Since its founding, Afiliias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afiliias registry in 2001 and expanded the number of TLDs supported,

all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

With over a decade of registry experience, Afilias has the depth and breadth of experience that ensure existing and new needs are addressed, all while meeting or exceeding service level requirements and customer expectations. This is evident in Afilias' participation in business, policy and technical organizations supporting registry and Internet technology within ICANN and related organizations. This allows Afilias to be at the forefront of security initiatives such as: DNSSEC, wherein Afilias worked with Public Interest Registry (PIR) to make the .ORG registry the first DNSSEC enabled gTLD and the largest TLD enabled at the time; in enhancing the Internet experience for users across the globe by leading development of IDNs; in pioneering the use of open-source technologies by its usage of PostgreSQL, and; being the first to offer near-real-time dissemination of DNS zone data.

The ability to observe tightening resources for critical functions and the capacity to add extra resources ahead of a threshold event are factors that Afilias is well versed in. Afilias' human resources team, along with well-established relationships with external organizations, enables it to fill both long-term and short-term resource needs expediently.

Afilias' growth from a few domains to serving 20 million domain names across 16 TLDs and 400 accredited registrars indicates that the relationship between the number of people required and the volume of domains supported is not linear. In other words, servicing 100 TLDs does not automatically require 6 times more staff than servicing 16 TLDs. Similarly, an increase in the number of domains under management does not require in a linear increase in resources. Afilias carefully tracks the relationship between resources deployed and domains to be serviced, and pro-actively reviews this metric in order to retain a safe margin of error. This enables Afilias to add, train and prepare new staff well in advance of the need, allowing consistent delivery of high quality services.

## Demonstration of Technical & Operational Capability

### 24. Shared Registration System (SRS) Performance

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE "<" and ">" CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias operates a state-of-the-art EPP-based Shared Registration System (SRS) that is secure, stable and reliable. The SRS is a critical component of registry operations that must balance the business requirements for the registry and its

customers, such as numerous domain acquisition and management functions. The SRS meets or exceeds all ICANN requirements given that Afiliias:

- Operates a secure, stable and reliable SRS which updates in real-time and in full compliance with Specification 6 of the new gTLD Registry Agreement;
- Is committed to continuously enhancing our SRS to meet existing and future needs;
- Currently exceeds contractual requirements and will perform in compliance with Specification 10 of the new gTLD Registry Agreement;
- Provides SRS functionality and staff, financial, and other resources to more than adequately meet the technical needs of this TLD, and;
- Manages the SRS with a team of experienced technical professionals who can seamlessly integrate this TLD into the Afiliias registry platform and support the TLD in a secure, stable and reliable manner.

Description of operation of the SRS, including diagrams

Afiliias' SRS provides the same advanced functionality as that used in the .INFO and .ORG registries, as well as the fourteen other TLDs currently supported by Afiliias. The Afiliias registry system is standards-compliant and utilizes proven technology, ensuring global familiarity for registrars, and it is protected by our massively provisioned infrastructure that mitigates the risk of disaster.

EPP functionality is described fully in our response to question #25; please consider those answers incorporated here by reference. An abbreviated list of Afiliias SRS functionality includes:

- Domain registration: Afiliias provides registration of names in the TLD, in both ASCII and IDN forms, to accredited registrars via EPP and a web-based administration tool.
- Domain renewal: Afiliias provides services that allow registrars the ability to renew domains under sponsorship at any time. Further, the registry performs the automated renewal of all domain names at the expiration of their term, and allows registrars to rescind automatic renewals within a specified number of days after the transaction for a full refund.
- Transfer: Afiliias provides efficient and automated procedures to facilitate the transfer of sponsorship of a domain name between accredited registrars. Further, the registry enables bulk transfers of domains under the provisions of the Registry-Registrar Agreement.
- RGP and restoring deleted domain registrations: Afiliias provides support for the Redemption Grace Period (RGP) as needed, enabling the restoration of deleted registrations.
- Other grace periods and conformance with ICANN guidelines: Afiliias provides support for other grace periods that are evolving as standard practice inside the ICANN community. In addition, the Afiliias registry system supports the evolving ICANN guidelines on IDNs.

Afiliias also supports the basic check, delete, and modify commands.

As required for all new gTLDs, Afiliias provides "thick" registry system functionality. In this model, all key contact details for each domain are stored in the registry. This allows better access to domain data and provides uniformity in storing the information.

Afiliias' SRS complies today and will continue to comply with global best practices including relevant RFCs, ICANN requirements, and this TLD's respective domain policies. With over a decade of experience, Afiliias has fully documented and tested policies and procedures, and our highly skilled team members are active participants of the major relevant technology and standards organizations, so ICANN can be assured that SRS performance and compliance are met. Full details regarding the SRS system and network architecture are provided in responses to questions #31 and #32; please consider those answers incorporated here by



reference.

#### SRS servers and software

All applications and databases for this TLD will run in a virtual environment currently hosted by a cluster of servers equipped with the latest Intel Westmere multi-core processors. (It is possible that by the time this application is evaluated and systems deployed, Westmere processors may no longer be the "latest"; the Afilias policy is to use the most advanced, stable technology available at the time of deployment.) The data for the registry will be stored on storage arrays of solid state drives shared over a fast storage area network. The virtual environment allows the infrastructure to easily scale both vertically and horizontally to cater to changing demand. It also facilitates effective utilization of system resources, thus reducing energy consumption and carbon footprint.

The network firewalls, routers and switches support all applications and servers. Hardware traffic shapers are used to enforce an equitable access policy for connections coming from registrars. The registry system accommodates both IPv4 and IPv6 addresses. Hardware load balancers accelerate TLS/SSL handshaking and distribute load among a pool of application servers.

Each of the servers and network devices are equipped with redundant, hot-swappable components and multiple connections to ancillary systems. Additionally, 24x7 support agreements with a four-hour response time at all our data centers guarantee replacement of failed parts in the shortest time possible.

Examples of current system and network devices used are:

- Servers: Cisco UCS B230 blade servers
- SAN storage arrays: IBM Storwize V7000 with Solid State Drives
- SAN switches: Brocade 5100
- Firewalls: Cisco ASA 5585-X
- Load balancers: F5 Big-IP 6900
- Traffic shapers: Procera PacketLogic PL8720
- Routers: Juniper MX40 3D
- Network switches: Cisco Nexus 7010, Nexus 5548, Nexus 2232

These system components are upgraded and updated as required, and have usage and performance thresholds which trigger upgrade review points. In each data center, there is a minimum of two of each network component, a minimum of 25 servers, and a minimum of two storage arrays.

Technical components of the SRS include the following items, continually checked and upgraded as needed: SRS, WHOIS, web admin tool, DNS, DNS distributor, reporting, invoicing tools, and deferred revenue system (as needed).

All hardware is massively provisioned to ensure stability under all forecast volumes from launch through "normal" operations of average daily and peak capacities. Each and every system application, server, storage and network device is continuously monitored by the Afilias Network Operations Center for performance and availability. The data gathered is used by dynamic predictive analysis tools in real-time to raise alerts for unusual resource demands. Should any volumes exceed established thresholds, a capacity planning review is instituted which will address the need for additions well in advance of their actual need.

#### SRS diagram and interconnectivity description

As with all core registry services, the SRS is run from a global cluster of registry system data centers, located in geographic centers with high Internet bandwidth, power, redundancy and availability. All of the registry systems will be run in a <n+1> setup, with a primary data center and a secondary data

center. For detailed site information, please see our responses to questions #32 and #35. Registrars access the SRS in real-time using EPP.

A sample of the Afilias SRS technical and operational capabilities (displayed in Figure 24-a) include:

- Geographically diverse redundant registry systems;
- Load balancing implemented for all registry services (e.g. EPP, WHOIS, web admin) ensuring equal experience for all customers and easy horizontal scalability;
- Disaster Recovery Point objective for the registry is within one minute of the loss of the primary system;
- Detailed and tested contingency plan, in case of primary site failure, and;
- Daily reports, with secure access for confidentiality protection.

As evidenced in Figure 24-a, the SRS contains several components of the registry system. The interconnectivity ensures near-real-time distribution of the data throughout the registry infrastructure, timely backups, and up-to-date billing information.

The WHOIS servers are directly connected to the registry database and provide real-time responses to queries using the most up-to-date information present in the registry.

Committed DNS-related EPP objects in the database are made available to the DNS Distributor via a dedicated set of connections. The DNS Distributor extracts committed DNS-related EPP objects in real time and immediately inserts them into the zone for dissemination.

The Afilias system is architected such that read-only database connections are executed on database replicas and connections to the database master (where write-access is executed) are carefully protected to ensure high availability.

This interconnectivity is monitored, as is the entire registry system, according to the plans detailed in our response to question #42.

#### Synchronization scheme

Registry databases are synchronized both within the same data center and in the backup data center using a database application called Slony. For further details, please see the responses to questions #33 and #37. Slony replication of transactions from the publisher (master) database to its subscribers (replicas) works continuously to ensure the publisher and its subscribers remain synchronized. When the publisher database completes a transaction the Slony replication system ensures that each replica also processes the transaction. When there are no transactions to process, Slony "sleeps" until a transaction arrives or for one minute, whichever comes first. Slony "wakes up" each minute to confirm with the publisher that there has not been a transaction and thus ensures subscribers are synchronized and the replication time lag is minimized. The typical replication time lag between the publisher and subscribers depends on the topology of the replication cluster, specifically the location of the subscribers relative to the publisher. Subscribers located in the same data center as the publisher are typically updated within a couple of seconds, and subscribers located in a secondary data center are typically updated in less than ten seconds. This ensures real-time or near-real-time synchronization between all databases, and in the case where the secondary data center needs to be activated, it can be done with minimal disruption to registrars.

#### SRS SLA performance compliance

Afilias has a ten-year record of delivering on the demanding ICANN SLAs, and will continue to provide secure, stable and reliable service in compliance with SLA requirements as specified in the new gTLD Registry Agreement, Specification 10, as presented in Figure 24-b.

The Afilias SRS currently handles over 200 million EPP transactions per month for just .INFO and .ORG. Overall, the Afilias SRS manages over 700 million EPP transactions per month for all TLDs under management.

Given this robust functionality, and more than a decade of experience supporting a thick TLD registry with a strong performance history, Afilias will meet or exceed the performance metrics in Specification 10 of the new gTLD Registry Agreement. The Afilias services and infrastructure are designed to scale both vertically and horizontally without any downtime to provide consistent performance as this TLD grows. The Afilias architecture is also massively provisioned to meet seasonal demands and marketing campaigns. Afilias' experience also gives high confidence in the ability to scale and grow registry operations for this TLD in a secure, stable and reliable manner.

#### SRS resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

Over 100 Afilias team members contribute to the management of the SRS code and network that will support this TLD. The SRS team is composed of Software Engineers, Quality Assurance Analysts, Application Administrators, System Administrators, Storage Administrators, Network Administrators, Database Administrators, and Security Analysts located at three geographically separate Afilias facilities. The systems and services set up and administered by these team members are monitored 24x7 by skilled analysts at two NOCs located in Toronto, Ontario (Canada) and Horsham, Pennsylvania (USA). In addition to these team members, Afilias also utilizes trained project management staff to maintain various calendars, work breakdown schedules, utilization and resource schedules and other tools to support the technical and management staff. It is this team who will both deploy this TLD on the Afilias infrastructure, and maintain it. Together, the Afilias team has managed 11 registry transitions and six new TLD launches, which illustrate its ability to securely and reliably deliver regularly scheduled updates as well as a secure, stable and reliable SRS service for this TLD.

## 25. Extensible Provisioning Protocol (EPP)

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE "<" and ">" CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias has been a pioneer and innovator in the use of EPP. .INFO was the first EPP-based gTLD registry and launched on EPP version 02/00. Afilias has a track record of supporting TLDs on standards-compliant versions of EPP. Afilias will operate the EPP registrar interface as well as a web-based interface for this TLD in accordance with RFCs and global best practices. In addition, Afilias will maintain a proper OT&E (Operational Testing and Evaluation) environment to facilitate registrar system development and testing.

Afilias' EPP technical performance meets or exceeds all ICANN requirements as demonstrated by:

- A completely functional, state-of-the-art, EPP-based SRS that currently meets the needs of various gTLDs and will meet this new TLD's needs;
- A track record of success in developing extensions to meet client and registrar business requirements such as multi-script support for IDNs;
- Supporting six ICANN gTLDs on EPP: .INFO, .ORG, .MOBI, .AERO, .ASIA and .XXX
- EPP software that is operating today and has been fully tested to be standards-compliant;
- Proven interoperability of existing EPP software with ICANN-accredited registrars, and;
- An SRS that currently processes over 200 million EPP transactions per month for both .INFO and .ORG. Overall, Afilias processes over 700 million EPP transactions per month for all 16 TLDs under management.

The EPP service is offered in accordance with the performance specifications defined in the new gTLD Registry Agreement, Specification 10.

#### EPP Standards

The Afilias registry system complies with the following revised versions of the RFCs and operates multiple ICANN TLDs on these standards, including .INFO, .ORG, .MOBI, .ASIA and .XXX. The systems have been tested by our Quality Assurance ("QA") team for RFC compliance, and have been used by registrars for an extended period of time:

- 3735 - Guidelines for Extending EPP
- 3915 - Domain Registry Grace Period Mapping
- 5730 - Extensible Provisioning Protocol (EPP)
- 5731 - Domain Name Mapping
- 5732 - Host Mapping
- 5733 - Contact Mapping
- 5734 - Transport Over TCP
- 5910 - Domain Name System (DNS) Security Extensions Mapping for the Extensible Provisioning Protocol (EPP)

This TLD will support all valid EPP commands. The following EPP commands are in operation today and will be made available for this TLD. See attachment #25a for the base set of EPP commands and copies of Afilias XSD schema files, which define all the rules of valid, RFC compliant EPP commands and responses that Afilias supports. Any customized EPP extensions, if necessary, will also conform to relevant RFCs.

Afilias staff members actively participated in the Internet Engineering Task Force (IETF) process that finalized the new standards for EPP. Afilias will continue to actively participate in the IETF and will stay abreast of any updates to the EPP standards.

#### EPP software interface and functionality

Afilias will provide all registrars with a free open-source EPP toolkit. Afilias provides this software for use with both Microsoft Windows and Unix/Linux

operating systems. This software, which includes all relevant templates and schema defined in the RFCs, is available on sourceforge.net and will be available through the registry operator's website.

Afilias' SRS EPP software complies with all relevant RFCs and includes the following functionality:

- EPP Greeting: A response to a successful connection returns a greeting to the client. Information exchanged can include: name of server, server date and time in UTC, server features, e.g., protocol versions supported, languages for the text response supported, and one or more elements which identify the objects that the server is capable of managing;
- Session management controls: <login> to establish a connection with a server, and <logout> to end a session;
- EPP Objects: Domain, Host and Contact for respective mapping functions;
- EPP Object Query Commands: Info, Check, and Transfer (query) commands to retrieve object information, and;
- EPP Object Transform Commands: five commands to transform objects:  
<create> to create an instance of an object, <delete> to remove an instance of an object, <renew> to extend the validity period of an object, <update> to change information associated with an object, and <transfer> to manage changes in client sponsorship of a known object.

Currently, 100% of the top domain name registrars in the world have software that has already been tested and certified to be compatible with the Afilias SRS registry. In total, over 375 registrars, representing over 95% of all registration volume worldwide, operate software that has been certified compatible with the Afilias SRS registry. Afilias' EPP Registrar Acceptance Criteria are available in attachment #25b, EPP OT&E Criteria.

#### Free EPP software support

Afilias analyzes and diagnoses registrar EPP activity log files as needed and is available to assist registrars who may require technical guidance regarding how to fix repetitive errors or exceptions caused by misconfigured client software.

Registrars are responsible for acquiring a TLS/SSL certificate from an approved certificate authority, as the registry-registrar communication channel requires mutual authentication; Afilias will acquire and maintain the server-side TLS/SSL certificate. The registrar is responsible for developing support for TLS/SSL in their client application. Afilias will provide free guidance for registrars unfamiliar with this requirement.

#### Registrar data synchronization

There are two methods available for registrars to synchronize their data with the registry:

- Automated synchronization: Registrars can, at any time, use the EPP <info> command to obtain definitive data from the registry for a known object, including domains, hosts (nameservers) and contacts.
- Personalized synchronization: A registrar may contact technical support and request a data file containing all domains (and associated host (nameserver) and contact information) registered by that registrar, within a specified time interval. The data will be formatted as a comma separated values (CSV) file and made available for download using a secure server.

#### EPP modifications

There are no unique EPP modifications planned for this TLD.

All ICANN TLDs must offer a Sunrise as part of a rights protection program.

Afilias uses EPP extensions that allow registrars to submit trademark and other intellectual property rights (IPR) data to the registry. These extensions are:

- An <ipr:name> element that indicates the name of Registered Mark.
- An <ipr:number> element that indicates the registration number of the IPR.
- An <ipr:ccLocality> element that indicates the origin for which the IPR is established (a national or international trademark registry).
- An <ipr:entitlement> element that indicates whether the applicant holds the trademark as the original "OWNER", "CO-OWNER" or "ASSIGNEE".
- An <ipr:appDate> element that indicates the date the Registered Mark was applied for.
- An <ipr:regDate> element that indicates the date the Registered Mark was issued and registered.
- An <ipr:class> element that indicates the class of the registered mark.
- An <ipr:type> element that indicates the Sunrise phase the application applies for.

Note that some of these extensions might be subject to change based on ICANN-developed requirements for the Trademark Clearinghouse.

### EPP resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

108 Afilias team members directly contribute to the management and development of the EPP based registry systems. As previously noted, Afilias is an active member of IETF and has a long documented history developing and enhancing EPP. These contributors include 11 developers and 14 QA engineers focused on maintaining and enhancing EPP server side software. These engineers work directly with business staff to timely address existing needs and forecast registry/registrar needs to ensure the Afilias EPP software is effective today and into the future. A team of eight data analysts work with the EPP software system to ensure that the data flowing through EPP is securely and reliably stored in replicated database systems. In addition to the EPP developers, QA engineers, and data analysts, other EPP contributors at Afilias include: Technical Analysts, the Network Operations Center and Data Services team members.

## 26. Whois

Afilias operates the WHOIS (registration data directory service) infrastructure in accordance with RFCs and global best practices, as it does for the 16 TLDs it currently supports. Designed to be robust and scalable, Afilias' WHOIS service has exceeded all contractual requirements for over a decade. It has extended search capabilities, and methods of limiting abuse.

The WHOIS service operated by Afilias meets and exceeds ICANN's requirements. Specifically, Afilias will:

- Offer a WHOIS service made available on port 43 that is flexible and standards-

compliant;

- Comply with all ICANN policies, and meeting or exceeding WHOIS performance requirements in Specification 10 of the new gTLD Registry Agreement;
- Enable a Searchable WHOIS with extensive search capabilities that offers ease of use while enforcing measures to mitigate access abuse, and;
- Employ a team with significant experience managing a compliant WHOIS service.

Such extensive knowledge and experience managing a WHOIS service enables Afilias to offer a comprehensive plan for this TLD that meets the needs of constituents of the domain name industry and Internet users. The service has been tested by our QA team for RFC compliance, and has been used by registrars and many other parties for an extended period of time. Afilias' WHOIS service currently serves almost 500 million WHOIS queries per month, with the capacity already built in to handle an order of magnitude increase in WHOIS queries, and the ability to smoothly scale should greater growth be needed.

#### WHOIS system description and diagram

The Afilias WHOIS system, depicted in figure 26-a, is designed with robustness, availability, compliance, and performance in mind. Additionally, the system has provisions for detecting abusive usage (e.g., excessive numbers of queries from one source). The WHOIS system is generally intended as a publicly available single object lookup system. Afilias uses an advanced, persistent caching system to ensure extremely fast query response times.

Afilias will develop restricted WHOIS functions based on specific domain policy and regulatory requirements as needed for operating the business (as long as they are standards compliant). It will also be possible for contact and registrant information to be returned according to regulatory requirements. The WHOIS database supports multiple string and field searching through a reliable, free, secure web-based interface.

#### Data objects, interfaces, access and lookups

Registrars can provide an input form on their public websites through which a visitor is able to perform WHOIS queries. The registry operator can also provide a Web-based search on its site. The input form must accept the string to query, along with the necessary input elements to select the object type and interpretation controls. This input form sends its data to the Afilias port 43 WHOIS server. The results from the WHOIS query are returned by the server and displayed in the visitor's Web browser. The sole purpose of the Web interface is to provide a user-friendly interface for WHOIS queries.

Afilias will provide WHOIS output as per Specification 4 of the new gTLD Registry Agreement. The output for domain records generally consists of the following elements:

- The name of the domain registered and the sponsoring registrar;
- The names of the primary and secondary nameserver(s) for the registered domain name;
- The creation date, registration status and expiration date of the registration;
- The name, postal address, e-mail address, and telephone and fax numbers of the domain name holder;
- The name, postal address, e-mail address, and telephone and fax numbers of the technical contact for the domain name holder;
- The name, postal address, e-mail address, and telephone and fax numbers of the administrative contact for the domain name holder, and;
- The name, postal address, e-mail address, and telephone and fax numbers of the billing contact for the domain name holder.

The following additional features are also present in Afilias' WHOIS service:

- Support for IDNs, including the language tag and the Punycode representation of the IDN in addition to Unicode Hex and Unicode HTML formats;

- Enhanced support for privacy protection relative to the display of confidential information.

Afilias will also provide sophisticated WHOIS search functionality that includes the ability to conduct multiple string and field searches.

#### Query controls

For all WHOIS queries, a user is required to enter the character string representing the information for which they want to search. The object type and interpretation control parameters to limit the search may also be specified. If object type or interpretation control parameter is not specified, WHOIS will search for the character string in the Name field of the Domain object.

WHOIS queries are required to be either an "exact search" or a "partial search," both of which are insensitive to the case of the input string.

An exact search specifies the full string to search for in the database field. An exact match between the input string and the field value is required.

A partial search specifies the start of the string to search for in the database field. Every record with a search field that starts with the input string is considered a match. By default, if multiple matches are found for a query, then a summary containing up to 50 matching results is presented. A second query is required to retrieve the specific details of one of the matching records.

If only a single match is found, then full details will be provided. Full detail consists of the data in the matching object as well as the data in any associated objects. For example: a query that results in a domain object includes the data from the associated host and contact objects.

WHOIS query controls fall into two categories: those that specify the type of field, and those that modify the interpretation of the input or determine the level of output to provide. Each is described below.

The following keywords restrict a search to a specific object type:

- Domain: Searches only domain objects. The input string is searched in the Name field.
- Host: Searches only nameserver objects. The input string is searched in the Name field and the IP Address field.
- Contact: Searches only contact objects. The input string is searched in the ID field.
- Registrar: Searches only registrar objects. The input string is searched in the Name field.

By default, if no object type control is specified, then the Name field of the Domain object is searched.

In addition, Afilias WHOIS systems can perform and respond to WHOIS searches by registrant name, postal address and contact names. Deployment of these features is provided as an option to the registry operator, based upon registry policy and business decisionmaking.

Figure 26-b presents the keywords that modify the interpretation of the input or determine the level of output to provide.

By default, if no interpretation control keywords are used, the output will include full details if a single match is found and a summary if multiple matches are found.

#### Unique TLD requirements

There are no unique WHOIS requirements for this TLD.



### Sunrise WHOIS processes

All ICANN TLDs must offer a Sunrise as part of a rights protection program. Afiliias uses EPP extensions that allow registrars to submit trademark and other intellectual property rights (IPR) data to the registry. The following corresponding data will be displayed in WHOIS for relevant domains:

- Trademark Name: element that indicates the name of the Registered Mark.
- Trademark Number: element that indicates the registration number of the IPR.
- Trademark Locality: element that indicates the origin for which the IPR is established (a national or international trademark registry).
- Trademark Entitlement: element that indicates whether the applicant holds the trademark as the original "OWNER", "CO-OWNER" or "ASSIGNEE".
  - Trademark Application Date: element that indicates the date the Registered Mark was applied for.
  - Trademark Registration Date: element that indicates the date the Registered Mark was issued and registered.
- Trademark Class: element that indicates the class of the Registered Mark.
- IPR Type: element that indicates the Sunrise phase the application applies for.

### IT and infrastructure resources

All the applications and databases for this TLD will run in a virtual environment hosted by a cluster of servers equipped with the latest Intel Westmere multi-core processors (or a more advanced, stable technology available at the time of deployment). The registry data will be stored on storage arrays of solid-state drives shared over a fast storage area network. The virtual environment allows the infrastructure to easily scale both vertically and horizontally to cater to changing demand. It also facilitates effective utilization of system resources thus reducing energy consumption and carbon footprint.

The applications and servers are supported by network firewalls, routers and switches. The WHOIS system accommodates both IPv4 and IPv6 addresses.

Each of the servers and network devices are equipped with redundant hot-swappable components and multiple connections to ancillary systems. Additionally, 24x7 support agreements with our hardware vendor with a 4-hour response time at all our data centers guarantees replacement of failed parts in the shortest time possible.

Models of system and network devices used are:

- Servers: Cisco UCS B230 blade servers
- SAN storage arrays: IBM Storwize V7000 with Solid State Drives
- Firewalls: Cisco ASA 5585-X
- Load balancers: F5 Big-IP 6900
- Traffic shapers: Procera PacketLogic PL8720
- Routers: Juniper MX40 3D
- Network switches: Cisco Nexus 7010, Nexus 5548, Nexus 2232

There will be at least four virtual machines (VMs) offering WHOIS service. Each VM will run at least two WHOIS server instances - one for registrars and one for the public. All instances of the WHOIS service is made available to registrars and the public are rate limited to mitigate abusive behavior.

### Frequency of synchronization between servers

Registration data records from the EPP publisher database will be replicated to the WHOIS system database on a near-real-time basis whenever an update occurs.

### Specifications 4 and 10 compliance

The WHOIS service for this TLD will meet or exceed the performance requirements in the new gTLD Registry Agreement, Specification 10. Figure 26-c provides the exact measurements and commitments. Afilias has a 10 year track record of exceeding WHOIS performance and a skilled team to ensure this continues for all TLDs under management.

The WHOIS service for this TLD will meet or exceed the requirements in the new gTLD Registry Agreement, Specification 4.

#### RFC 3912 compliance

Afilias will operate the WHOIS infrastructure in compliance with RFCs and global best practices, as it does with the 16 TLDs Afilias currently supports.

Afilias maintains a registry-level centralized WHOIS database that contains information for every registered domain and for all host and contact objects. The WHOIS service will be available on the Internet standard WHOIS port (port 43) in compliance with RFC 3912. The WHOIS service contains data submitted by registrars during the registration process. Changes made to the data by a registrant are submitted to Afilias by the registrar and are reflected in the WHOIS database and service in near-real-time, by the instance running at the primary data center, and in under ten seconds by the instance running at the secondary data center, thus providing all interested parties with up-to-date information for every domain. This service is compliant with the new gTLD Registry Agreement, Specification 4.

The WHOIS service maintained by Afilias will be authoritative and complete, as this will be a "thick" registry (detailed domain contact WHOIS is all held at the registry); users do not have to query different registrars for WHOIS information, as there is one central WHOIS system. Additionally, visibility of different types of data is configurable to meet the registry operator's needs.

#### Searchable WHOIS

Afilias offers a searchable WHOIS on a web-based Directory Service. Partial match capabilities are offered on the following fields: domain name, registrar ID, and IP address. In addition, Afilias WHOIS systems can perform and respond to WHOIS searches by registrant name, postal address and contact names.

Providing the ability to search important and high-value fields such as registrant name, address and contact names increases the probability of abusive behavior. An abusive user could script a set of queries to the WHOIS service and access contact data in order to create or sell a list of names and addresses of registrants in this TLD. Making the WHOIS machine readable, while preventing harvesting and mining of WHOIS data, is a key requirement integrated into the Afilias WHOIS systems. For instance, Afilias limits search returns to 50 records at a time. If bulk queries were ever necessary (e.g., to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process), Afilias makes such query responses available to carefully screened and limited staff members at the registry operator (and customer support staff) via an internal data warehouse. The Afilias WHOIS system accommodates anonymous access as well as pre-identified and profile-defined uses, with full audit and log capabilities.

The WHOIS service has the ability to tag query responses with labels such as "Do not redistribute" or "Special access granted". This may allow for tiered response and reply scenarios. Further, the WHOIS service is configurable in parameters and fields returned, which allow for flexibility in compliance with various jurisdictions, regulations or laws.

Afilias offers exact-match capabilities on the following fields: registrar ID, nameserver name, and nameserver's IP address (only applies to IP addresses stored by the registry, i.e., glue records). Search capabilities are fully available, and results include domain names matching the search criteria (including IDN variants). Afilias manages abuse prevention through rate limiting and CAPTCHA (described below). Queries do not require specialized transformations of internationalized domain names or internationalized data fields

Please see "Query Controls" above for details about search options and capabilities.

#### Deterring WHOIS abuse

Afilias has adopted two best practices to prevent abuse of the WHOIS service: rate limiting and CAPTCHA.

Abuse of WHOIS services on port 43 and via the Web is subject to an automated rate-limiting system. This ensures that uniformity of service to users is unaffected by a few parties whose activities abuse or otherwise might threaten to overload the WHOIS system.

Abuse of web-based public WHOIS services is subject to the use of CAPTCHA (Completely Automated Public Turing test to tell Computers and Humans Apart) technology. The use of CAPTCHA ensures that uniformity of service to users is unaffected by a few parties whose activities abuse or otherwise might threaten to overload the WHOIS system. Afilias will adopt a CAPTCHA on its Web-based WHOIS.

Data mining of any sort on the WHOIS system is strictly prohibited, and this prohibition is published in WHOIS output and in terms of service.

For rate limiting on IPv4, there are configurable limits per IP and subnet. For IPv6, the traditional limitations do not apply. Whenever a unique IPv6 IP address exceeds the limit of WHOIS queries per minute, the same rate-limit for the given 64 bits of network prefix that the offending IPv6 IP address falls into will be applied. At the same time, a timer will start and rate-limit validation logic will identify if there are any other IPv6 address within the original 80-bit (<48) prefix. If another offending IPv6 address does fall into the <48 prefix then rate-limit validation logic will penalize any other IPv6 addresses that fall into that given 80-bit (<48) network. As a security precaution, Afilias will not disclose these limits.

Pre-identified and profile-driven role access allows greater granularity and configurability in both access to the WHOIS service, and in volume/frequency of responses returned for queries.

Afilias staff are key participants in the ICANN Security & Stability Advisory Committee's deliberations and outputs on WHOIS, including SAC003, SAC027, SAC033, SAC037, SAC040, and SAC051. Afilias staff are active participants in both technical and policy decision making in ICANN, aimed at restricting abusive behavior.

#### WHOIS staff resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which

allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afiliias project management methodology allows efficient and effective use of our staff in a focused way.

Within Afiliias, there are 11 staff members who develop and maintain the compliant WHOIS systems. They keep pace with access requirements, thwart abuse, and continually develop software. Of these resources, approximately two staffers are typically required for WHOIS-related code customization. Other resources provide quality assurance, and operations personnel maintain the WHOIS system itself. This team will be responsible for the implementation and on-going maintenance of the new TLD WHOIS service.

## 27. Registration Life Cycle

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE " <" and "> " CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afiliias has been managing registrations for over a decade. Afiliias has had experience managing registrations for over a decade and supports comprehensive registration lifecycle services including the registration states, all standard grace periods, and can address any modifications required with the introduction of any new ICANN policies.

This TLD will follow the ICANN standard domain lifecycle, as is currently implemented in TLDs such as .ORG and .INFO. The below response includes: a diagram and description of the lifecycle of a domain name in this TLD, including domain creation, transfer protocols, grace period implementation and the respective time frames for each; and the existing resources to support the complete lifecycle of a domain.

As depicted in Figure 27-a, prior to the beginning of the Trademark Claims Service or Sunrise IP protection program[s], Afiliias will support the reservation of names in accordance with the new gTLD Registry Agreement, Specification 5.

### Registration period

After the IP protection programs and the general launch, eligible registrants may choose an accredited registrar to register a domain name. The registrar will check availability on the requested domain name and if available, will collect specific objects such as, the required contact and host information from the registrant. The registrar will then provision the information into the registry system using standard Extensible Provisioning Protocol ("EPP") commands through a secure connection to the registry backend service provider.

When the domain is created, the standard five day Add Grace Period begins, the domain and contact information are available in WHOIS, and normal operating EPP domain statuses will apply. Other specifics regarding registration rules for an active domain include:

- The domain must be unique;
- Restricted or reserved domains cannot be registered;
- The domain can be registered from 1-10 years;
- The domain can be renewed at any time for 1-10 years, but cannot exceed 10 years;

- The domain can be explicitly deleted at any time;
  - The domain can be transferred from one registrar to another except during the first 60 days following a successful registration or within 60 days following a transfer; and,
- Contacts and hosts can be modified at any time.

The following describe the domain status values recognized in WHOIS when using the EPP protocol following RFC 5731.

- OK or Active: This is the normal status for a domain that has no pending operations or restrictions.
- Inactive: The domain has no delegated name servers.
- Locked: No action can be taken on the domain. The domain cannot be renewed, transferred, updated, or deleted. No objects such as contacts or hosts can be associated to, or disassociated from the domain. This status includes: Delete Prohibited / Server Delete Prohibited, Update Prohibited / Server Update Prohibited, Transfer Prohibited, Server Transfer Prohibited, Renew Prohibited, Server Renew Prohibited.
- Hold: The domain will not be included in the zone. This status includes: Client Hold, Server Hold.
- Transfer Prohibited: The domain cannot be transferred away from the sponsoring registrar. This status includes: Client Transfer Prohibited, Server Transfer Prohibited.

The following describe the registration operations that apply to the domain name during the registration period.

a. Domain modifications: This operation allows for modifications or updates to the domain attributes to include:

- i. Registrant Contact
- ii. Admin Contact
- iii. Technical Contact
- iv. Billing Contact
- v. Host or nameservers
- vi. Authorization information
- vii. Associated status values

A domain with the EPP status of Client Update Prohibited or Server Update Prohibited may not be modified until the status is removed.

b. Domain renewals: This operation extends the registration period of a domain by changing the expiration date. The following rules apply:

- i. A domain can be renewed at any time during its registration term,
- ii. The registration term cannot exceed a total of 10 years.

A domain with the EPP status of Client Renew Prohibited or Server Renew Prohibited cannot be renewed.

c. Domain deletions: This operation deletes the domain from the Shared Registry Services (SRS). The following rules apply:

- i. A domain can be deleted at any time during its registration term, if the domain is deleted during the Add Grace Period or the Renew/Extend Grace Period, the sponsoring registrar will receive a credit,
- ii. A domain cannot be deleted if it has "child" nameservers that are associated to other domains.

A domain with the EPP status of Client Delete Prohibited or Server Delete Prohibited cannot be deleted.

d. Domain transfers: A transfer of the domain from one registrar to another is conducted by following the steps below.

- i. The registrant must obtain the applicable <authInfo> code from the

sponsoring (losing) registrar.

- Every domain name has an authInfo code as per EPP RFC 5731. The authInfo code is a six- to 16-character code assigned by the registrar at the time the name was created. Its purpose is to aid identification of the domain owner so proper authority can be established (it is the "password" to the domain).

- Under the Registry-Registrar Agreement, registrars will be required to provide a copy of the authInfo code to the domain registrant upon his or her request.

ii. The registrant must provide the authInfo code to the new (gaining) registrar, who will then initiate a domain transfer request. A transfer cannot be initiated without the authInfo code.

- Every EPP <transfer> command must contain the authInfo code or the request will fail. The authInfo code represents authority to the registry to initiate a transfer.

iii. Upon receipt of a valid transfer request, the registry automatically asks the sponsoring (losing) registrar to approve the request within five calendar days.

- When a registry receives a transfer request the domain cannot be modified, renewed or deleted until the request has been processed. This status must not be combined with either Client Transfer Prohibited or Server Transfer Prohibited status.

- If the sponsoring (losing) registrar rejects the transfer within five days, the transfer request is cancelled. A new domain transfer request will be required to reinitiate the process.

- If the sponsoring (losing) registrar does not approve or reject the transfer within five days, the registry automatically approves the request.

iv. After a successful transfer, it is strongly recommended that registrars change the authInfo code, so that the prior registrar or registrant cannot use it anymore.

v. Registrars must retain all transaction identifiers and codes associated with successful domain object transfers and protect them from disclosure.

vi. Once a domain is successfully transferred the status of TRANSFERPERIOD is added to the domain for a period of five days.

vii. Successful transfers will result in a one year term extension (resulting in a maximum total of 10 years), which will be charged to the gaining registrar.

e. Bulk transfer: Afilias supports bulk transfer functionality within the SRS for situations where ICANN may request the registry to perform a transfer of some or all registered objects (includes domain, contact and host objects) from one registrar to another registrar. Once a bulk transfer has been executed, expiry dates for all domain objects remain the same, and all relevant states of each object type are preserved. In some cases the gaining and the losing registrar as well as the registry must approved bulk transfers. A detailed log is captured for each bulk transfer process and is archived for audit purposes.

Afilias will support ICANN's Transfer Dispute Resolution Process. Afilias will also respond to Requests for Enforcement (law enforcement or court orders) and will follow that process.

#### 1. Auto-renew grace period

The Auto-Renew Grace Period displays as AUTORENEWPERIOD in WHOIS. An auto-renew must be requested by the registrant through the sponsoring registrar and occurs if a domain name registration is not explicitly renewed or deleted by the expiration date and is set to a maximum of 45 calendar days. In this circumstance the registration will be automatically renewed by the registry system the first day after the expiration date. If a Delete, Extend, or Transfer occurs within the AUTORENEWPERIOD the following rules apply:

i. Delete. If a domain is deleted the sponsoring registrar at the time of the deletion receives a credit for the auto-renew fee. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.

ii. Renew/Extend. A domain can be renewed as long as the total term does not exceed 10 years. The account of the sponsoring registrar at the time of the extension will be charged for the additional number of years the registration is

renewed.

iii. Transfer (other than ICANN-approved bulk transfer). If a domain is transferred, the losing registrar is credited for the auto-renew fee, and the year added by the operation is cancelled. As a result of the transfer, the expiration date of the domain is extended by minimum of one year as long as the total term does not exceed 10 years. The gaining registrar is charged for the additional transfer year(s) even in cases where a full year is not added because of the maximum 10 year registration restriction.

## 2. Redemption grace period

During this period, a domain name is placed in the PENDING DELETE RESTORABLE status when a registrar requests the deletion of a domain that is not within the Add Grace Period. A domain can remain in this state for up to 30 days and will not be included in the zone file. The only action a registrar can take on a domain is to request that it be restored. Any other registrar requests to modify or otherwise update the domain will be rejected. If the domain is restored it moves into PENDING RESTORE and then OK. After 30 days if the domain is not restored it moves into PENDING DELETE SCHEDULED FOR RELEASE before the domain is released back into the pool of available domains.

## 3. Pending delete

During this period, a domain name is placed in PENDING DELETE SCHEDULED FOR RELEASE status for five days, and all Internet services associated with the domain will remain disabled and domain cannot be restored. After five days the domain is released back into the pool of available domains.

## Other grace periods

All ICANN required grace periods will be implemented in the registry backend service provider's system including the Add Grace Period (AGP), Renew/Extend Grace Period (EGP), Transfer Grace Period (TGP), Auto-Renew Grace Period (ARGP), and Redemption Grace Period (RGP). The lengths of grace periods are configurable in the registry system. At this time, the grace periods will be implemented following other gTLDs such as .ORG. More than one of these grace periods may be in effect at any one time. The following are accompanying grace periods to the registration lifecycle.

### Add grace period

The Add Grace Period displays as ADDPERIOD in WHOIS and is set to five calendar days following the initial registration of a domain. If the domain is deleted by the registrar during this period, the registry provides a credit to the registrar for the cost of the registration. If a Delete, Renew/Extend, or Transfer operation occurs within the five calendar days, the following rules apply.

- i. Delete. If a domain is deleted within this period the sponsoring registrar at the time of the deletion is credited for the amount of the registration. The domain is deleted from the registry backend service provider's database and is released back into the pool of available domains.
- ii. Renew/Extend. If the domain is renewed within this period and then deleted, the sponsoring registrar will receive a credit for both the registration and the extended amounts. The account of the sponsoring registrar at the time of the renewal will be charged for the initial registration plus the number of years the registration is extended. The expiration date of the domain registration is extended by that number of years as long as the total term does not exceed 10 years.
- iii. Transfer (other than ICANN-approved bulk transfer). Transfers under Part A of the ICANN Policy on Transfer of Registrations between registrars may not occur during the ADDPERIOD or at any other time within the first 60 days after the initial registration. Enforcement is the responsibility of the registrar sponsoring the domain name registration and is enforced by the SRS.

#### Renew / extend grace period

The Renew / Extend Grace Period displays as RENEWPERIOD in WHOIS and is set to five calendar days following an explicit renewal on the domain by the registrar. If a Delete, Extend, or Transfer occurs within the five calendar days, the following rules apply:

- i. Delete. If a domain is deleted within this period the sponsoring registrar at the time of the deletion receives a credit for the renewal fee. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.
- ii. Renew/Extend. A domain registration can be renewed within this period as long as the total term does not exceed 10 years. The account of the sponsoring registrar at the time of the extension will be charged for the additional number of years the registration is renewed.
- iii. Transfer (other than ICANN-approved bulk transfer). If a domain is transferred within the Renew/Extend Grace Period, there is no credit to the losing registrar for the renewal fee. As a result of the transfer, the expiration date of the domain registration is extended by a minimum of one year as long as the total term for the domain does not exceed 10 years.

If a domain is auto-renewed, then extended, and then deleted within the Renew/Extend Grace Period, the registrar will be credited for any auto-renew fee charged and the number of years for the extension. The years that were added to the domain's expiration as a result of the auto-renewal and extension are removed. The deleted domain is moved to the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.

#### Transfer Grace Period

The Transfer Grace period displays as TRANSFERPERIOD in WHOIS and is set to five calendar days after the successful transfer of domain name registration from one registrar to another registrar. Transfers under Part A of the ICANN Policy on Transfer of Registrations between registrars may not occur during the TRANSFERPERIOD or within the first 60 days after the transfer. If a Delete or Renew/Extend occurs within that five calendar days, the following rules apply:

- i. Delete. If the domain is deleted by the new sponsoring registrar during this period, the registry provides a credit to the registrar for the cost of the transfer. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.
- ii. Renew/Extend. If a domain registration is renewed within the Transfer Grace Period, there is no credit for the transfer. The registrar's account will be charged for the number of years the registration is renewed. The expiration date of the domain registration is extended by the renewal years as long as the total term does not exceed 10 years.

#### Registration lifecycle resources

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way. Virtually all Afilias resource are involved in the registration lifecycle of domains.

There are a few areas where registry staff devote resources to registration lifecycle issues:

- a. Supporting Registrar Transfer Disputes. The registry operator will have a compliance staffer handle these disputes as they arise; they are very rare in the existing gTLDs.



b. Afiliias has its development and quality assurance departments on hand to modify the grace period functionality as needed, if ICANN issues new Consensus Policies or the RFCs change.

Afiliias has more than 30 staff members in these departments.

## 28. Abuse Prevention and Mitigation

Afiliias will take the requisite operational and technical steps to promote WHOIS data accuracy, limit domain abuse, remove outdated and inaccurate data, and other security measures to ensure the integrity of the TLD. The specific measures include, but are not limited to:

- Posting a TLD Anti-Abuse Policy that clearly defines abuse, and provide point-of-contact information for reporting suspected abuse;
- Committing to rapid identification and resolution of abuse, including suspensions;
- Ensuring completeness of WHOIS information at the time of registration;
- Publishing and maintaining procedures for removing orphan glue records for names removed from the zone, and;
- Establishing measures to deter WHOIS abuse, including rate-limiting, determining data syntax validity, and implementing and enforcing requirements from the Registry-Registrar Agreement.

### Abuse policy

The Anti-Abuse Policy stated below will be enacted under the contractual authority of the registry operator through the Registry-Registrar Agreement, and the obligations will be passed on to and made binding upon registrants. This policy will be posted on the TLD web site along with contact information for registrants or users to report suspected abuse.

The policy is designed to address the malicious use of domain names. The registry operator and its registrars will make reasonable attempts to limit significant harm to Internet users. This policy is not intended to take the place of the Uniform Domain Name Dispute Resolution Policy (UDRP) or the Uniform Rapid Suspension System (URS), and it is not to be used as an alternate form of dispute resolution or as a brand protection mechanism. Its intent is not to burden law-abiding or innocent registrants and domain users; rather, the intent is to deter those who use domain names maliciously by engaging in illegal or fraudulent activity.

Repeat violations of the abuse policy will result in a case-by-case review of the abuser(s), and the registry operator reserves the right to escalate the issue, with the intent of levying sanctions that are allowed under the TLD anti-abuse policy.

The below policy is a recent version of the policy that has been used by the .INFO registry since 2008, and the .ORG registry since 2009. It has proven to be an effective and flexible tool.

### .LOTTO Anti-Abuse Policy

The following Anti-Abuse Policy is effective upon launch of the TLD. Malicious use of domain names will not be tolerated. The nature of such abuses creates security and stability issues for the registry, registrars, and registrants, as well as for users of the Internet in general. The registry operator definition of abusive use of a domain includes, without limitation, the following:

- Illegal or fraudulent actions;
- Spam: The use of electronic messaging systems to send unsolicited bulk messages. The term applies to email spam and similar abuses such as instant messaging spam, mobile messaging spam, and the spamming of web sites and Internet forums;
- Phishing: The use of counterfeit web pages that are designed to trick recipients into divulging sensitive data such as personally identifying information, usernames, passwords, or financial data;
- Pharming: The redirecting of unknowing users to fraudulent sites or services, typically through, but not limited to, DNS hijacking or poisoning;
- Willful distribution of malware: The dissemination of software designed to infiltrate or damage a computer system without the owner's informed consent. Examples include, without limitation, computer viruses, worms, keyloggers, and Trojan horses.
- Malicious fast-flux hosting: Use of fast-flux techniques with a botnet to disguise the location of web sites or other Internet services, or to avoid detection and mitigation efforts, or to host illegal activities.
- Botnet command and control: Services run on a domain name that are used to control a collection of compromised computers or "zombies," or to direct distributed denial-of-service attacks (DDoS attacks);
- Illegal Access to Other Computers or Networks: Illegally accessing computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (e.g., port scan, stealth scan, or other information gathering activity).

Pursuant to the Registry-Registrar Agreement, registry operator reserves the right at its sole discretion to deny, cancel, or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, or similar status, that it deems necessary: (1) to protect the integrity and stability of the registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (3) to avoid any liability, civil or criminal, on the part of registry operator, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) per the terms of the registration agreement and this Anti-Abuse Policy, or (5) to correct mistakes made by registry operator or any registrar in connection with a domain name registration. Registry operator also reserves the right to place upon registry lock, hold, or similar status a domain name during resolution of a dispute.

The policy stated above will be accompanied by notes about how to submit a report to the registry operator's abuse point of contact, and how to report an orphan glue record suspected of being used in connection with malicious conduct (see below).

#### Abuse point of contact and procedures for handling abuse complaints

The registry operator will establish an abuse point of contact. This contact will be a role-based e-mail address of the form "abuse@registry.LOTTO". This e-mail address will allow multiple staff members to monitor abuse reports on a 24x7 basis, and then work toward closure of cases as each situation calls for. For tracking purposes, the registry operator will have a ticketing system with which all complaints will be tracked internally. The reporter will be provided with the ticket reference identifier for potential follow-up. Afilias will integrate its existing ticketing system to ensure uniform tracking and handling of the complaint. This role-based approach has been used successfully by ISPs, e-mail service providers, and registrars for many years, and is considered a global best practice.

The registry operator's designated abuse handlers will then evaluate complaints received via the abuse system address. They will decide whether a particular issue

is of concern, and decide what action, if any, is appropriate.

In general, the registry operator will find itself receiving abuse reports from a wide variety of parties, including security researchers and Internet security companies, financial institutions such as banks, Internet users, and law enforcement agencies among others. Some of these parties may provide good forensic data or supporting evidence of the malicious behavior. In other cases, the party reporting an issue may not be familiar with how to provide such data or proof of malicious behavior. It is expected that a percentage of abuse reports to the registry operator will not be actionable, because there will not be enough evidence to support the complaint (even after investigation), and because some reports or reporters will simply not be credible.

The security function includes a communication and outreach function, with information sharing with industry partners regarding malicious or abusive behavior, in order to ensure coordinated abuse mitigation across multiple TLDs.

Assessing abuse reports requires great care, and the registry operator will rely upon professional, trained investigators who are versed in such matters. The goals are accuracy, good record-keeping, and a zero false-positive rate so as not to harm innocent registrants.

Different types of malicious activities require different methods of investigation and documentation. Further, the registry operator expects to face unexpected or complex situations that call for professional advice, and will rely upon professional, trained investigators as needed.

In general, there are two types of domain abuse that must be addressed:

- a) Compromised domains. These domains have been hacked or otherwise compromised by criminals, and the registrant is not responsible for the malicious activity taking place on the domain. For example, the majority of domain names that host phishing sites are compromised. The goal in such cases is to get word to the registrant (usually via the registrar) that there is a problem that needs attention with the expectation that the registrant will address the problem in a timely manner. Ideally such domains do not get suspended, since suspension would disrupt legitimate activity on the domain.
- b) Malicious registrations. These domains are registered by malefactors for the purpose of abuse. Such domains are generally targets for suspension, since they have no legitimate use.

The standard procedure is that the registry operator will forward a credible alleged case of malicious domain name use to the domain's sponsoring registrar with a request that the registrar investigate the case and act appropriately. The registrar will be provided evidence collected as a result of the investigation conducted by the trained abuse handlers. As part of the investigation, if inaccurate or false WHOIS registrant information is detected, the registrar is notified about this. The registrar is the party with a direct relationship with—and a direct contract with—the registrant. The registrar will also have vital information that the registry operator will not, such as:

- Details about the domain purchase, such as the payment method used (credit card, PayPal, etc.);
- The identity of a proxy-protected registrant;
- The purchaser's IP address;
- Whether there is a reseller involved, and;
- The registrant's past sales history and purchases in other TLDs (insofar as the registrar can determine this).

Registrars do not share the above information with registry operators due to privacy and liability concerns, among others. Because they have more information with which to continue the investigation, and because they have a direct relationship with the registrant, the registrar is in the best position to

evaluate alleged abuse. The registrar can determine if the use violates the registrar's legal terms of service or the registry Anti-Abuse Policy, and can decide whether or not to take any action. While the language and terms vary, registrars will be expected to include language in their registrar-registrant contracts that indemnifies the registrar if it takes action, and allows the registrar to suspend or cancel a domain name; this will be in addition to the registry Anti-Abuse Policy. Generally, registrars can act if the registrant violates the registrar's terms of service, or violates ICANN policy, or if illegal activity is involved, or if the use violates the registry's Anti-Abuse Policy.

If a registrar does not take action within a time period indicated by the registry operator (usually 24 hours), the registry operator might then decide to take action itself. At all times, the registry operator reserves the right to act directly and immediately if the potential harm to Internet users seems significant or imminent, with or without notice to the sponsoring registrar.

The registry operator will be prepared to call upon relevant law enforcement bodies as needed. There are certain cases, for example, Illegal pharmacy domains, where the registry operator will contact the Law Enforcement Agencies to share information about these domains, provide all the evidence collected and work closely with them before any action will be taken for suspension. The specific action is often dependent upon the jurisdiction of which the registry operator, although the operator in all cases will adhere to applicable laws and regulations.

When valid court orders or seizure warrants are received from courts or law enforcement agencies of relevant jurisdiction, the registry operator will order execution in an expedited fashion. Compliance with these will be a top priority and will be completed as soon as possible and within the defined timelines of the order. There are certain cases where Law Enforcement Agencies request information about a domain including but not limited to:

- Registration information
- History of a domain, including recent updates made
- Other domains associated with a registrant's account
- Patterns of registrant portfolio

Requests for such information is handled on a priority basis and sent back to the requestor as soon as possible. Afilias sets a goal to respond to such requests within 24 hours.

The registry operator may also engage in proactive screening of its zone for malicious use of the domains in the TLD, and report problems to the sponsoring registrars. The registry operator could take advantage of a combination of the following resources, among others:

- Blocklists of domain names and nameservers published by organizations such as SURBL and Spamhaus.
- Anti-phishing feeds, which will provide URLs of compromised and maliciously registered domains being used for phishing.
- Analysis of registration or DNS query data [DNS query data received by the TLD nameservers.]

The registry operator will keep records and track metrics regarding abuse and abuse reports. These will include:

- Number of abuse reports received by the registry's abuse point of contact described above;
- Number of cases and domains referred to registrars for resolution;
- Number of cases and domains where the registry took direct action;
- Resolution times;
- Number of domains in the TLD that have been blacklisted by major anti-spam blacklist providers, and;
- Phishing site uptimes in the TLD.

## Removal of orphan glue records

By definition, orphan glue records used to be glue records. Glue records are related to delegations and are necessary to guide iterative resolvers to delegated nameservers. A glue record becomes an orphan when its parent nameserver record is removed without also removing the corresponding glue record. (Please reference the ICANN SSAC paper SAC048 at:

<http://www.icann.org/en/committees/security/sac048.pdf>.) Orphan glue records may be created when a domain (example.tld) is placed on EPP ServerHold or ClientHold status. When placed on Hold, the domain is removed from the zone and will stop resolving. However, any child nameservers (now orphan glue) of that domain (e.g., ns1.example.tld) are left in the zone. It is important to keep these orphan glue records in the zone so that any innocent sites using that nameserver will continue to resolve. This use of Hold status is an essential tool for suspending malicious domains.

Afilias observes the following procedures, which are being followed by other registries and are generally accepted as DNS best practices. These procedures are also in keeping with ICANN SSAC recommendations.

When a request to delete a domain is received from a registrar, the registry first checks for the existence of glue records. If glue records exist, the registry will check to see if other domains in the registry are using the glue records. If other domains in the registry are using the glue records then the request to delete the domain will fail until no other domains are using the glue records. If no other domains in the registry are using the glue records then the glue records will be removed before the request to delete the domain is satisfied. If no glue records exist then the request to delete the domain will be satisfied.

If a registrar cannot delete a domain because of the existence of glue records that are being used by other domains, then the registrar may refer to the zone file or the "weekly domain hosted by nameserver report" to find out which domains are using the nameserver in question and attempt to contact the corresponding registrar to request that they stop using the nameserver in the glue record. The registry operator does not plan on performing mass updates of the associated DNS records.

The registry operator will accept, evaluate, and respond appropriately to complaints that orphan glue is being used maliciously. Such reports should be made in writing to the registry operator, and may be submitted to the registry's abuse point-of-contact. If it is confirmed that an orphan glue record is being used in connection with malicious conduct, the registry operator will have the orphan glue record removed from the zone file. Afilias has the technical ability to execute such requests as needed.

## Methods to promote WHOIS accuracy

The creation and maintenance of accurate WHOIS records is an important part of registry management. As described in our response to question #26, WHOIS, the registry operator will manage a secure, robust and searchable WHOIS service for this TLD.

### WHOIS data accuracy

The registry operator will offer a "thick" registry system. In this model, all key contact details for each domain name will be stored in a central location by the registry. This allows better access to domain data, and provides uniformity in storing the information. The registry operator will ensure that the required fields for WHOIS data (as per the defined policies for the TLD) are enforced at the registry level. This ensures that the registrars are providing required domain

registration data. Fields defined by the registry policy to be mandatory are documented as such and must be submitted by registrars. The Afiliias registry system verifies formats for relevant individual data fields (e.g. e-mail, and phone/fax numbers). Only valid country codes are allowed as defined by the ISO 3166 code list. The Afiliias WHOIS system is extensible, and is capable of using the VAULT system, described further below.

Similar to the centralized abuse point of contact described above, the registry operator can institute a contact email address which could be utilized by third parties to submit complaints for inaccurate or false WHOIS data detected. This information will be processed by Afiliias' support department and forwarded to the registrars. The registrars can work with the registrants of those domains to address these complaints. Afiliias will audit registrars on a yearly basis to verify whether the complaints being forwarded are being addressed or not. This functionality, available to all registry operators, is activated based on the registry operator's business policy.

Afiliias also incorporates a spot-check verification system where a randomly selected set of domain names are checked periodically for accuracy of WHOIS data. Afiliias' .PRO registry system incorporates such a verification system whereby 1% of total registrations or 100 domains, whichever number is larger, are spot-checked every month to verify the domain name registrant's critical information provided with the domain registration data. With both a highly qualified corps of engineers and a 24x7 staffed support function, Afiliias has the capacity to integrate such spot-check functionality into this TLD, based on the registry operator's business policy. Note: This functionality will not work for proxy protected WHOIS information, where registrars or their resellers have the actual registrant data. The solution to that problem lies with either registry or registrar policy, or a change in the general marketplace practices with respect to proxy registrations.

Finally, Afiliias' registry systems have a sophisticated set of billing and pricing functionality which aids registry operators who decide to provide a set of financial incentives to registrars for maintaining or improving WHOIS accuracy. For instance, it is conceivable that the registry operator may decide to provide a discount for the domain registration or renewal fees for validated registrants, or levy a larger cost for the domain registration or renewal of proxy domain names. The Afiliias system has the capability to support such incentives on a configurable basis, towards the goal of promoting better WHOIS accuracy.

#### Role of registrars

As part of the RRA (Registry Registrar Agreement), the registry operator will require the registrar to be responsible for ensuring the input of accurate WHOIS data by their registrants. The Registrar/Registered Name Holder Agreement will include a specific clause to ensure accuracy of WHOIS data, and to give the registrar rights to cancel or suspend registrations if the Registered Name Holder fails to respond to the registrar's query regarding accuracy of data. ICANN's WHOIS Data Problem Reporting System (WDPRS) will be available to those who wish to file WHOIS inaccuracy reports, as per ICANN policy (<http://wdprs.internic.net/>).

#### Controls to ensure proper access to domain functions

Several measures are in place in the Afiliias registry system to ensure proper access to domain functions, including authentication provisions in the RRA relative to notification and contact updates via use of AUTH-INFO codes.

IP address access control lists, TLS/SSL certificates and proper authentication are used to control access to the registry system. Registrars are only given access to perform operations on the objects they sponsor.

Every domain will have a unique AUTH-INFO code. The AUTH-INFO code is a 6- to 16-character code assigned by the registrar at the time the name is created. Its purpose is to aid identification of the domain owner so proper authority can be established. It is the "password" to the domain name. Registrars must use the domain's password in order to initiate a registrar-to-registrar transfer. It is used to ensure that domain updates (update contact information, transfer, or deletion) are undertaken by the proper registrant, and that this registrant is adequately notified of domain update activity. Only the sponsoring registrar of a domain has access to the domain's AUTH-INFO code stored in the registry, and this is accessible only via encrypted, password-protected channels.

Information about other registry security measures such as encryption and security of registrar channels are confidential to ensure the security of the registry system. The details can be found in the response to question #30b.

#### Validation and abuse mitigation mechanisms

Afilias has developed advanced validation and abuse mitigation mechanisms. These capabilities and mechanisms are described below. These services and capabilities are discretionary and may be utilized by the registry operator based on their policy and business need.

Afilias has the ability to analyze the registration data for known patterns at the time of registration. A database of these known patterns is developed from domains and other associated objects (e.g., contact information) which have been previously detected and suspended after being flagged as abusive. Any domains matching the defined criteria can be flagged for investigation. Once analyzed and confirmed by the domain anti-abuse team members, these domains may be suspended. This provides proactive detection of abusive domains.

Provisions are available to enable the registry operator to only allow registrations by pre-authorized and verified contacts. These verified contacts are given a unique code that can be used for registration of new domains.

#### Registrant pre-verification and authentication

One of the systems that could be used for validity and identity authentication is VAULT (Validation and Authentication Universal Lookup). It utilizes information obtained from a series of trusted data sources with access to billions of records containing data about individuals for the purpose of providing independent age and id verification as well as the ability to incorporate additional public or private data sources as required. At present it has the following: US Residential Coverage - 90% of Adult Population and also International Coverage - Varies from Country to Country with a minimum of 80% coverage (24 countries, mostly European).

Various verification elements can be used. Examples might include applicant data such as name, address, phone, etc. Multiple methods could be used for verification include integrated solutions utilizing API (XML Application Programming Interface) or sending batches of requests.

- Verification and Authentication requirements would be based on TLD operator requirements or specific criteria.
- Based on required WHOIS Data; registrant contact details (name, address, phone)
- If address/ZIP can be validated by VAULT, the validation process can continue (North America +25 International countries)
- If in-line processing and registration and EPP/API call would go to the verification clearinghouse and return up to 4 challenge questions.
- If two-step registration is required, then registrants would get a link to complete the verification at a separate time. The link could be specific to a

domain registration and pre-populated with data about the registrant.

- If WHOIS data is validated a token would be generated and could be given back to the registrar which registered the domain.
- WHOIS data would reflect the Validated Data or some subset, i.e., fields displayed could be first initial and last name, country of registrant and date validated. Other fields could be generic validation fields much like a "privacy service".
- A "Validation Icon" customized script would be sent to the registrants email address. This could be displayed on the website and would be dynamically generated to avoid unauthorized use of the Icon. When clicked on the Icon would should limited WHOIS details i.e. Registrant: jdoe, Country: USA, Date Validated: March 29, 2011, as well as legal disclaimers.
- Validation would be annually renewed, and validation date displayed in the WHOIS.

#### Abuse prevention resourcing plans

Since its founding, Afiliias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afiliias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afiliias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afiliias project management methodology allows efficient and effective use of our staff in a focused way. Abuse prevention and detection is a function that is staffed across the various groups inside Afiliias, and requires a team effort when abuse is either well hidden or widespread, or both. While all of Afiliias' 200+ employees are charged with responsibility to report any detected abuse, the engineering and analysis teams, numbering over 30, provide specific support based on the type of abuse and volume and frequency of analysis required. The Afiliias security and support teams have the authority to initiate mitigation.

Afiliias has developed advanced validation and abuse mitigation mechanisms. These capabilities and mechanisms are described below. These services and capabilities are discretionary and may be utilized by the registry operator based on their policy and business need.

This TLD's anticipated volume of registrations in the first three years of operations is listed in response #46. Afiliias' anti-abuse function anticipates the expected volume and type of registrations, and together will adequately cover the staffing needs for this TLD. The registry operator will maintain an abuse response team, which may be a combination of internal staff and outside specialty contractors, adjusting to the needs of the size and type of TLD. The team structure planned for this TLD is based on several years of experience responding to, mitigating, and managing abuse for TLDs of various sizes. The team will generally consist of abuse handlers (probably internal), a junior analyst, (either internal or external), and a senior security consultant (likely an external resource providing the registry operator with extra expertise as needed). These responders will be specially trained in the investigation of abuse complaints, and will have the latitude to act expeditiously to suspend domain names (or apply other remedies) when called for.

The exact resources required to maintain an abuse response team must change with the size and registration procedures of the TLD. An initial abuse handler is necessary as a point of contact for reports, even if a part-time responsibility. The abuse handlers monitor the abuse email address for complaints and evaluate incoming reports from a variety of sources. A large percentage of abuse reports to the registry operator may be unsolicited commercial email. The designated abuse



handlers can identify legitimate reports and then decide what action is appropriate, either to act upon them, escalate to a security analyst for closer investigation, or refer them to registrars as per the above-described procedures. A TLD with rare cases of abuse would conform to this structure.

If multiple cases of abuse within the same week occur regularly, the registry operator will consider staffing internally an additional security analyst to investigate the complaints as they become more frequent. Training an abuse analyst requires 3-6 months and likely requires the active guidance of an experienced senior security analyst for guidance and verification of assessments and recommendations being made.

If this TLD were to regularly experience multiple cases of abuse within the same day, a full-time senior security analyst would likely be necessary. A senior security analyst capable of fulfilling this role should have several years of experience and able to manage and train the internal abuse response team.

The abuse response team will also maintain subscriptions for several security information services, including the blocklists from organizations like SURBL and Spamhaus and anti-phishing and other domain related abuse (malware, fast-flux etc.) feeds. The pricing structure of these services may depend on the size of the domain and some services will include a number of rapid suspension requests for use as needed.

For a large TLD, regular audits of the registry data are required to maintain control over abusive registrations. When a registrar with a significant number of registrations has been compromised or acted maliciously, the registry operator may need to analyze a set of registration or DNS query data. A scan of all the domains of a registrar is conducted only as needed. Scanning and analysis for a large registrar may require as much as a week of full-time effort for a dedicated machine and team.

## 29. Rights Protection Mechanisms

Rights protection is a core responsibility of the TLD operator, and is supported by a fully-developed plan for rights protection that includes:

- Establishing mechanisms to prevent unqualified registrations (e.g., registrations made in violation of the registry's eligibility restrictions or policies);
- Implementing a robust Sunrise program, utilizing the Trademark Clearinghouse, the services of one of ICANN's approved dispute resolution providers, a trademark validation agent, and drawing upon sunrise policies and rules used successfully in previous gTLD launches;
- Implementing a professional trademark claims program that utilizes the Trademark Clearinghouse, and drawing upon models of similar programs used successfully in previous TLD launches;
- Complying with the URS requirements;
- Complying with the UDRP;
- Complying with the PDDRP, and;
- Including all ICANN-mandated and independently developed rights protection mechanisms ("RPMs") in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD.

The response below details the rights protection mechanisms at the launch of the TLD (Sunrise and Trademark Claims Service) which comply with rights protection policies (URS, UDRP, PDDRP, and other ICANN RPMs), outlines additional provisions made for rights protection, and provides the resourcing plans.

## Safeguards for rights protection at the launch of the TLD

The launch of this TLD will include the operation of a trademark claims service according to the defined ICANN processes for checking a registration request and alerting trademark holders of potential rights infringement.

The Sunrise Period will be an exclusive period of time, prior to the opening of public registration, when trademark and service mark holders will be able to reserve marks that are an identical match in the .LOTTO domain. Following the Sunrise Period, Afiliias will open registration to qualified applicants.

The anticipated Rollout Schedule for the Sunrise Period will be approximately as follows:

- Launch of the TLD - Sunrise Period begins for trademark holders and service mark holders to submit registrations for their exact marks in the .LOTTO domain.
- Quiet Period - The Sunrise Period will close and will be followed by a Quiet Period for testing and evaluation.
- One month after close of Quiet Period - Registration in the .LOTTO domain will be opened to qualified applicants.

### Sunrise Period Requirements & Restrictions

Those wishing to reserve their marks in the .LOTTO domain during the Sunrise Period must own a current trademark or service mark listed in the Trademark Clearinghouse.

Notice will be provided to all trademark holders in the Clearinghouse if someone is seeking a Sunrise registration. This notice will be provided to holders of marks in the Clearinghouse that are an Identical Match (as defined in the Trademark Clearing House) to the name to be registered during Sunrise.

Each Sunrise registration will require a minimum term of five years.

Afiliias will establish the following Sunrise eligibility requirements (SERs) as minimum requirements, verified by Clearinghouse data, and incorporate a Sunrise Dispute Resolution Policy (SDRP). The SERs include: (i) ownership of a mark that satisfies the criteria set forth in section 7.2 of the Trademark Clearing House specifications, (ii) description of international class of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.

The SDRP will allow challenges based on the following four grounds: (i) at time the challenged domain name was registered, the registrants did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

### Ongoing rights protection mechanisms

Several mechanisms will be in place to protect rights in this TLD. As described in our responses to questions #27 and #28, measures are in place to ensure domain

transfers and updates are only initiated by the appropriate domain holder, and an experienced team is available to respond to legal actions by law enforcement or court orders.

This TLD will conform to all ICANN RPMs including URS (defined below), UDRP, PDDRP, and all measures defined in Specification 7 of the new TLD agreement.

#### Uniform Rapid Suspension (URS)

The registry operator will implement decisions rendered under the URS on an ongoing basis. Per the URS policy posted on ICANN's Web site as of this writing, the registry operator will receive notice of URS actions from the ICANN-approved URS providers. These emails will be directed immediately to the registry operator's support staff, which is on duty 24x7. The support staff will be responsible for creating a ticket for each case, and for executing the directives from the URS provider. All support staff will receive pertinent training.

As per ICANN's URS guidelines, within 24 hours of receipt of the notice of complaint from the URS provider, the registry operator shall "lock" the domain, meaning the registry shall restrict all changes to the registration data, including transfer and deletion of the domain names, but the name will remain in the TLD DNS zone file and will thus continue to resolve. The support staff will "lock" the domain by associating the following EPP statuses with the domain and relevant contact objects:

- ServerUpdateProhibited, with an EPP reason code of "URS"
- ServerDeleteProhibited, with an EPP reason code of "URS"
- ServerTransferProhibited, with an EPP reason code of "URS"
- The registry operator's support staff will then notify the URS provider immediately upon locking the domain name, via email.

The registry operator's support staff will retain all copies of emails from the URS providers, assign them a tracking or ticket number, and will track the status of each opened URS case through to resolution via spreadsheet or database.

The registry operator's support staff will execute further operations upon notice from the URS providers. The URS provider is required to specify the remedy and required actions of the registry operator, with notification to the registrant, the complainant, and the registrar.

As per the URS guidelines, if the complainant prevails, the "registry operator shall suspend the domain name, which shall remain suspended for the balance of the registration period and would not resolve to the original web site. The nameservers shall be redirected to an informational web page provided by the URS provider about the URS. The WHOIS for the domain name shall continue to display all of the information of the original registrant except for the redirection of the nameservers. In addition, the WHOIS shall reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration."

#### Rights protection via the RRA

The following will be memorialized and be made binding via the Registry-Registrar and Registrar-Registrant Agreements:

- The registry may reject a registration request or a reservation request, or may delete, revoke, suspend, cancel, or transfer a registration or reservation under the following criteria:
  - a. to enforce registry policies and ICANN requirements; each as amended from time to time;
  - b. that is not accompanied by complete and accurate information as required by ICANN requirements and/or registry policies or where required information is not updated and/or corrected as required by ICANN requirements and/or registry policies;

- c. to protect the integrity and stability of the registry, its operations, and the TLD system;
- d. to comply with any applicable law, regulation, holding, order, or decision issued by a court, administrative authority, or dispute resolution service provider with jurisdiction over the registry;
- e. to establish, assert, or defend the legal rights of the registry or a third party or to avoid any civil or criminal liability on the part of the registry and/or its affiliates, subsidiaries, officers, directors, representatives, employees, contractors, and stockholders;
- f. to correct mistakes made by the registry or any accredited registrar in connection with a registration; or
- g. as otherwise provided in the Registry-Registrar Agreement and/or the Registrar-Registrant Agreement.

Reducing opportunities for behaviors such as phishing or pharming

In our response to question #28, the registry operator has described its anti-abuse program. Rather than repeating the policies and procedures here, please see our response to question #28 for full details.

In the case of this TLD, Afiliias will apply an approach that addresses registered domain names (rather than potentially registered domains). This approach will not infringe upon the rights of eligible registrants to register domains, and allows Afiliias internal controls, as well as community-developed UDRP and URS policies and procedures if needed, to deal with complaints, should there be any.

Afiliias is a member of various security fora which provide access to lists of names in each TLD which may be used for malicious purposes. Such identified names will be subject to the TLD anti-abuse policy, including rapid suspensions after due process.

Rights protection resourcing plans

Since its founding, Afiliias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afiliias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afiliias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afiliias project management methodology allows efficient and effective use of our staff in a focused way.

Supporting RPMs requires several departments within the registry operator as well as within Afiliias. The implementation of Sunrise and the Trademark Claims service and on-going RPM activities will pull from the 102 Afiliias staff members of the engineering, product management, development, security and policy teams at Afiliias which are on duty 24x7. A trademark validator will also be assigned within the registry operator, whose responsibilities may require as much as 50% of full-time employment if the domains under management were to exceed several million. No additional hardware or software resources are required to support this as Afiliias has fully-operational capabilities to manage abuse today.

## 30(a). Security Policy: Summary of the security policy for

# the proposed registry

Afilias aggressively and actively protects the registry system from known threats and vulnerabilities, and has deployed an extensive set of security protocols, policies and procedures to thwart compromise. Afilias' robust and detailed plans are continually updated and tested to ensure new threats are mitigated prior to becoming issues. Afilias will continue these rigorous security measures, which include:

- Multiple layers of security and access controls throughout registry and support systems;
- 24x7 monitoring of all registry and DNS systems, support systems and facilities;
- Unique, proven registry design that ensures data integrity by granting only authorized access to the registry system, all while meeting performance requirements;
- Detailed incident and problem management processes for rapid review, communications, and problem resolution, and;
- Yearly external audits by independent, industry-leading firms, as well as twice-yearly internal audits.

## Security policies and protocols

Afilias has included security in every element of its service, including facilities, hardware, equipment, connectivity/Internet services, systems, computer systems, organizational security, outage prevention, monitoring, disaster mitigation, and escrow/insurance, from the original design, through development, and finally as part of production deployment. Examples of threats and the confidential and proprietary mitigation procedures are detailed in our response to question #30(b).

There are several important aspects of the security policies and procedures to note:

- Afilias hosts domains in data centers around the world that meet or exceed global best practices.
- Afilias' DNS infrastructure is massively provisioned as part of its DDoS mitigation strategy, thus ensuring sufficient capacity and redundancy to support new gTLDs.
- Diversity is an integral part of all of our software and hardware stability and robustness plan, thus avoiding any single points of failure in our infrastructure.
- Access to any element of our service (applications, infrastructure and data) is only provided on an as-needed basis to employees and a limited set of others to fulfill their job functions. The principle of least privilege is applied.
- All registry components - critical and non-critical - are monitored 24x7 by staff at our NOCs, and the technical staff has detailed plans and procedures that have stood the test of time for addressing even the smallest anomaly. Well-documented incident management procedures are in place to quickly involve the on-call technical and management staff members to address any issues.

Afilias follows the guidelines from the ISO 27001 Information Security Standard (Reference:

[http://www.iso.org/iso/iso\\_catalogue/catalogue\\_tc/catalogue\\_detail.htm?csnumber=42103](http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=42103)) for the management and implementation of its Information Security Management System. Afilias also utilizes the COBIT IT governance framework to facilitate policy development and enable controls for appropriate management of risk (Reference: <http://www.isaca.org/cobit>). Best practices defined in ISO 27002 are followed for defining the security controls within the organization. Afilias continually looks to improve the efficiency and effectiveness of our processes, and follows industry best practices as defined by the IT Infrastructure Library, or ITIL (Reference: <http://www.itil-officialsite.com/>).

The Afiliias registry system is located within secure data centers that implement a multitude of security measures both to minimize any potential points of vulnerability and to limit any damage should there be a breach. The characteristics of these data centers are described fully in our response to question #30(b).

The Afiliias registry system employs a number of multi-layered measures to prevent unauthorized access to its network and internal systems. Before reaching the registry network, all traffic is required to pass through a firewall system. Packets passing to and from the Internet are inspected, and unauthorized or unexpected attempts to connect to the registry servers are both logged and denied. Management processes are in place to ensure each request is tracked and documented, and regular firewall audits are performed to ensure proper operation. 24x7 monitoring is in place and, if potential malicious activity is detected, appropriate personnel are notified immediately.

Afiliias employs a set of security procedures to ensure maximum security on each of its servers, including disabling all unnecessary services and processes and regular application of security-related patches to the operating system and critical system applications. Regular external vulnerability scans are performed to verify that only services intended to be available are accessible.

Regular detailed audits of the server configuration are performed to verify that the configurations comply with current best security practices. Passwords and other access means are changed on a regular schedule and are revoked whenever a staff member's employment is terminated.

#### Access to registry system

Access to all production systems and software is strictly limited to authorized operations staff members. Access to technical support and network operations teams where necessary are read only and limited only to components required to help troubleshoot customer issues and perform routine checks. Strict change control procedures are in place and are followed each time a change is required to the production hardware/application. User rights are kept to a minimum at all times. In the event of a staff member's employment termination, all access is removed immediately.

Afiliias applications use encrypted network communications. Access to the registry server is controlled. Afiliias allows access to an authorized registrar only if each of the authentication factors matches the specific requirements of the requested authorization. These mechanisms are also used to secure any web-based tools that allow authorized registrars to access the registry. Additionally, all write transactions in the registry (whether conducted by authorized registrars or the registry's own personnel) are logged.

EPP connections are encrypted using TLS/SSL, and mutually authenticated using both certificate checks and login/password combinations. Web connections are encrypted using TLS/SSL for an encrypted tunnel to the browser, and authenticated to the EPP server using login/password combinations.

All systems are monitored for security breaches from within the data center and without, using both system-based and network-based testing tools. Operations staff also monitor systems for security-related performance anomalies. Triple-redundant continual monitoring ensures multiple detection paths for any potential incident or problem. Details are provided in our response to questions #30(b) and #42. Network Operations and Security Operations teams perform regular audits in search of any potential vulnerability.

To ensure that registrar hosts configured erroneously or maliciously cannot deny service to other registrars, Afiliias uses traffic shaping technologies to prevent attacks from any single registrar account, IP address, or subnet. This additional

layer of security reduces the likelihood of performance degradation for all registrars, even in the case of a security compromise at a subset of registrars.

There is a clear accountability policy that defines what behaviors are acceptable and unacceptable on the part of non-staff users, staff users, and management. Periodic audits of policies and procedures are performed to ensure that any weaknesses are discovered and addressed. Aggressive escalation procedures and well-defined Incident Response management procedures ensure that decision makers are involved at early stages of any event.

In short, security is a consideration in every aspect of business at Afilias, and this is evidenced in a track record of a decade of secure, stable and reliable service.

#### Independent assessment

Supporting operational excellence as an example of security practices, Afilias performs a number of internal and external security audits each year of the existing policies, procedures and practices for:

- Access control;
- Security policies;
- Production change control;
- Backups and restores;
- Batch monitoring;
- Intrusion detection, and
- Physical security.

Afilias has an annual Type 2 SSAE 16 audit performed by PricewaterhouseCoopers (PwC). Further, PwC performs testing of the general information technology controls in support of the financial statement audit. A Type 2 report opinion under SSAE 16 covers whether the controls were properly designed, were in place, and operating effectively during the audit period (calendar year). This SSAE 16 audit includes testing of internal controls relevant to Afilias' domain registry system and processes. The report includes testing of key controls related to the following control objectives:

- Controls provide reasonable assurance that registrar account balances and changes to the registrar account balances are authorized, complete, accurate and timely.
- Controls provide reasonable assurance that billable transactions are recorded in the Shared Registry System (SRS) in a complete, accurate and timely manner.
- Controls provide reasonable assurance that revenue is systemically calculated by the Deferred Revenue System (DRS) in a complete, accurate and timely manner.
- Controls provide reasonable assurance that the summary and detail reports, invoices, statements, registrar and registry billing data files, and ICANN transactional reports provided to registry operator(s) are complete, accurate and timely.
- Controls provide reasonable assurance that new applications and changes to existing applications are authorized, tested, approved, properly implemented and documented.
- Controls provide reasonable assurance that changes to existing system software and implementation of new system software are authorized, tested, approved, properly implemented and documented.
- Controls provide reasonable assurance that physical access to data centers is restricted to properly authorized individuals.
- Controls provide reasonable assurance that logical access to system resources is restricted to properly authorized individuals.
- Controls provide reasonable assurance that processing and backups are appropriately authorized and scheduled and that deviations from scheduled processing and backups are identified and resolved.

The last Type 2 report issued was for the year 2010, and it was unqualified, i.e., all systems were evaluated with no material problems found.

During each year, Afiliias monitors the key controls related to the SSAE controls. Changes or additions to the control objectives or activities can result due to deployment of new services, software enhancements, infrastructure changes or process enhancements. These are noted and after internal review and approval, adjustments are made for the next review.

In addition to the PricewaterhouseCoopers engagement, Afiliias performs internal security audits twice a year. These assessments are constantly being expanded based on risk assessments and changes in business or technology.

Additionally, Afiliias engages an independent third-party security organization, PivotPoint Security, to perform external vulnerability assessments and penetration tests on the sites hosting and managing the Registry infrastructure. These assessments are performed with major infrastructure changes, release of new services or major software enhancements. These independent assessments are performed at least annually. A report from a recent assessment is attached with our response to question #30(b).

Afiliias has engaged with security companies specializing in application and web security testing to ensure the security of web-based applications offered by Afiliias, such as the Web Admin Tool (WAT) for registrars and registry operators.

Finally, Afiliias has engaged IBM's Security services division to perform ISO 27002 gap assessment studies so as to review alignment of Afiliias' procedures and policies with the ISO 27002 standard. Afiliias has since made adjustments to its security procedures and policies based on the recommendations by IBM.

#### Special TLD considerations

Afiliias' rigorous security practices are regularly reviewed; if there is a need to alter or augment procedures for this TLD, they will be done so in a planned and deliberate manner.

#### Commitments to registrant protection

With over a decade of experience protecting domain registration data, Afiliias understands registrant security concerns. Afiliias supports a "thick" registry system in which data for all objects are stored in the registry database that is the centralized authoritative source of information. As an active member of IETF (Internet Engineering Task Force), ICANN's SSAC (Security & Stability Advisory Committee), APWG (Anti-Phishing Working Group), MAAWG (Messaging Anti-Abuse Working Group), USENIX, and ISACA (Information Systems Audits and Controls Association), the Afiliias team is highly attuned to the potential threats and leading tools and procedures for mitigating threats. As such, registrants should be confident that:

- Any confidential information stored within the registry will remain confidential;
- The interaction between their registrar and Afiliias is secure;
- The Afiliias DNS system will be reliable and accessible from any location;
- The registry system will abide by all polices, including those that address registrant data;
- Afiliias will not introduce any features or implement technologies that compromise access to the registry system or that compromise registrant security.

Afiliias has directly contributed to the development of the documents listed below



and we have implemented them where appropriate. All of these have helped improve registrants' ability to protect their domains name(s) during the domain name lifecycle.

- [SAC049]: SSAC Report on DNS Zone Risk Assessment and Management (03 June 2011)
- [SAC044]: A Registrant's Guide to Protecting Domain Name Registration Accounts (05 November 2010)
- [SAC040]: Measures to Protect Domain Registration Services Against Exploitation or Misuse (19 August 2009)
- [SAC028]: SSAC Advisory on Registrar Impersonation Phishing Attacks (26 May 2008)
- [SAC024]: Report on Domain Name Front Running (February 2008)
- [SAC022]: Domain Name Front Running (SAC022, SAC024) (20 October 2007)
- [SAC011]: Problems caused by the non-renewal of a domain name associated with a DNS Name Server (7 July 2006)
- [SAC010]: Renewal Considerations for Domain Name Registrants (29 June 2006)
- [SAC007]: Domain Name Hijacking Report (SAC007) (12 July 2005)

To protect any unauthorized modification of registrant data, Afilias mandates TLS/SSL transport (per RFC 5246) and authentication methodologies for access to the registry applications. Authorized registrars are required to supply a list of specific individuals (five to ten people) who are authorized to contact the registry. Each such individual is assigned a pass phrase. Any support requests made by an authorized registrar to registry customer service are authenticated by registry customer service. All failed authentications are logged and reviewed regularly for potential malicious activity. This prevents unauthorized changes or access to registrant data by individuals posing to be registrars or their authorized contacts.

These items reflect an understanding of the importance of balancing data privacy and access for registrants, both individually and as a collective, worldwide user base.

The Afilias 24/7 Customer Service Center consists of highly trained staff who collectively are proficient in 15 languages, and who are capable of responding to queries from registrants whose domain name security has been compromised - for example, a victim of domain name hijacking. Afilias provides specialized registrant assistance guides, including specific hand-holding and follow-through in these kinds of commonly occurring circumstances, which can be highly distressing to registrants

Security resourcing plans

Please refer to our response to question #30b for security resourcing plans.

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## **ANNEX 2.4**

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## ORGANIZATION

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### MISSION

### MEMBER LOTTERIES

### MEMBER LOTTERY SUPPLIERS

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### HALL OF FAME

### GUIDELINES FOR THE USE OF LOGO

# MISSION

## WHO WE ARE

The European Lotteries is the umbrella organisation of national lotteries operating games of chance for the public benefit. EL brings together state-owned and private operators, both profit and non-profit, who operate on behalf of the state. Our members only offer gambling and betting services in the jurisdictions in which they are licensed by the respective national government. Our Association was created in 1983 under Swiss law and is headquartered in Lausanne, Switzerland. In 1999, we adopted the name The European Lotteries and added the sport betting operators to our membership. In 2007, we set up an EU Representation office in Brussels.

## OUR MISSION

We promote the sound and sustainable gaming model for the benefit of society that we stand for and that is based on the values of subsidiarity, precaution, solidarity and integrity. We advance the collective interests of our members, the national lotteries operating games of chance for the public benefit, and defend our model in the discussion on the societal, political, economic and regulatory framework for gambling.

Our organisation is a proactive and strategic forum for reflection and discussion between our members and a true laboratory for the design and implementation of the further development and architecture of our model. We promote the cooperation between our members by providing them with the platforms for exchange, educational offerings, precise information and sound support.

## OUR VALUES

The sound and sustainable gambling model we defend is built on four essential values:

**Subsidiarity** – Member States hold the primary competence to organise and regulate gambling activities. They need to work together to guarantee law enforcement against illegal operators and to protect consumers.

**Precaution** – players need to be protected from harmful and unregulated gambling offerings through effective and efficient law enforcement. In light of the risks inherent to any gambling activity, we advocate that governments take a very cautious approach with regard to the regulation of games in their markets.

**Solidarity** – The revenue generated by Lotteries in Europe represents an important contribution to the State budget and specific good causes. The specific features and the sustainable contributions from lotteries to society need to be recognised and taken into account in any coordinated approach at policy level.

**Integrity** – As the historic partners of sport, we defend the European sport model against threats from match-fixing and other criminal activities and call for further measures to protect sport integrity.

The European Lotteries Association's mission is to promote the development and effective communication between Members, the European and international gaming industry, the institutions of the European Union and European Governments.

The "European State Lotteries and Toto Association" or "Association Européenne des Loteries et Totos d'Etat" ("The European Lotteries")  
 Av. de Béthusy 36 – 1005 Lausanne – Tel: +41 21 311 30 25 – Fax: +41 21 312 30 11 – [info@european-lotteries.org](mailto:info@european-lotteries.org)

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## **ANNEX 2.5**



THE  
EUROPEAN  
LOTTERIES

FOR THE BENEFIT OF SOCIETY

# STATUTES

European State Lotteries and Toto Association

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CH-1005 Lausanne  
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F +41-21-312 30 11  
[info@european-lotteries.org](mailto:info@european-lotteries.org)  
[www.european-lotteries.org](http://www.european-lotteries.org)

## **Article 1 Constitution, Registered Office:**

- 1.1 The “European State Lotteries and Toto Association” is an association under Swiss law with its registered office in Lausanne.

## **Article 2 Aims and Objectives:**

- 2.1 The aims and objectives of the Association are to advance the collective interests of its Members and to enhance the capability, common knowledge and status of individual Members by inter alia:
- 2.1.1 promoting the interests of its Members in conducting its business as defined in Article 4.1.1;
  - 2.1.2 promoting the interests of its Members with the institutions of the European Union and any other governmental or intergovernmental institution based in Europe;
  - 2.1.3 providing a forum for the exchange of experience and information;
  - 2.1.4 establishing programmes to assist in technical and educational areas, to be made available to member organisations who request such assistance;
  - 2.1.5 establishing services in educational, statistical, informational or administrative matters;
  - 2.1.6 providing a forum for exchange of information on new technologies;
  - 2.1.7 convening seminars, Conventions, Conferences, Congresses, General Assemblies, Special Assemblies and working groups to further the aims of the Association including;
  - 2.1.8 providing stimuli and organisational assistance in the establishment of working groups seeking to form multi-jurisdictional lottery/games, national or international in scope;
  - 2.1.9 creating opportunities for co-operation between member organisations, especially by organising European draws, and
  - 2.1.10 representing several or all Members in conveying common positions or opinions to authorities, private or public, including representation in any court as party or third party wherever such Members have authorised the Association to speak or act on their behalf;
  - 2.1.11 applying for membership and participating in the activities of an association which pursues the same objectives at world level.
  - 2.1.12 providing sport monitoring services including data collection and reporting to be used for the purposes of sports betting, hereby aiming at the preservation of the integrity of sport and public order.
  - 2.1.13 Promoting its members’ interests with national and European sport organisations and associations, in particular in the field of football, and promoting sporting activities in general. Collaborate with WLA in the sport related activities at the worldwide level.

## Article 3 Members:

There shall be four categories of members:

- Regular Members (Art. 4)
- Observer Members (Art. 4bis)
- Affiliate Members (Art. 4ter)
- Associate Members (Art. 5)

Until admitted as Members by the General Assembly, applicants may be accepted as provisional members (Art.6).

## Article 4 Regular Members:

4.1.1 Any organisation within the European sphere is eligible for Regular membership that:

conducts games of chance and/or skill such as Lotto, Toto, class lotteries, classic lotteries, sports betting, sports lotteries, instant games, and lotteries generally, whatever the technical and/or commercial means used for operating them, and

4.1.2 is licensed or authorised by a jurisdiction domiciled in a State recognised by the United Nations who, in accordance with prevailing national law, may issue a licence or authorisation to operate such games as defined in Article 4.1.1 where the annual sales volume of such games form the greater part of the organisation's total gross revenue and whose net revenues for the greater part are dedicated, by public decision, to good causes and/or the State exchequer and

4.1.3 whose business practices conform to the aims and objectives of the Association, and

4.1.4 executes its activity in respect of the legislation in force in any country within the European sphere and takes care that its staff as well as its contractual partners and shareholders likewise respect their legislation in the countries concerned.

4.1.5 An organisation affiliated to a Regular member, cannot become a Regular member on its own as long as it remains affiliated to a Regular member.

Organisations are considered to be affiliated if they are subject to a consolidation in accordance with the Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts

4.1.6 A Regular Member who becomes affiliated to another Regular Member will cease to be a Regular Member as long as the acquiring organisation is a Regular Member

4.1.7 In case two or more Regular Members enter into a merger, the concerned Regular Members will cease to be Regular Members and be replaced as Regular Member by the newly constituted organisation resulting from the merger.

## Article 4<sup>bis</sup> Observer Members:

- 4bis.1.1 Any organisation within the European sphere, affiliated to a Regular Member, is eligible for Affiliate membership that:
- conducts games of chance and/or skill such as Lotto, Toto, class lotteries, classic lotteries, sports betting, sports lotteries, instant games, and lotteries generally, whatever the technical and/or commercial means used for operating them, and
- 4bis.1.2 is licensed or authorised by a jurisdiction domiciled in a State recognised by the United Nations who, in accordance with prevailing national law, may issue a licence or authorisation to operate such games as defined in Article 4.1.1 where the annual sales volume of such games form the greater part of the organisation's total gross revenue and whose net revenues for the greater part are dedicated, by public decision, to good causes and/or the State exchequer and
- 4bis.1.3 whose business practices conform to the aims and objectives of the Association, and
- 4bis.1.4 executes its activity in respect of the legislation in force in any country within the European sphere and takes care that its staff as well as its contractual partners and shareholders likewise respect their legislation in the countries concerned.

## Article 4<sup>ter</sup> Affiliate Members:

- 4ter.1.1. Any organisation within the European sphere, affiliated to a Regular Member, is eligible for Affiliate membership that:
- conducts games of chance and/or skill such as Lotto, Toto, class lotteries, classic lotteries, sports betting, sports lotteries, instant games, and lotteries generally, whatever the technical and/or commercial means used for operating them, and
- 4ter.1.2 is licensed or authorised by a jurisdiction domiciled in a State recognised by the United Nations who, in accordance with prevailing national law, may issue a licence or authorisation to operate such games as defined in Article 4.1.1 where the annual sales volume of such games form the greater part of the organisation's total gross revenue and whose net revenues for the greater part are dedicated, by public decision, to good causes and/or the State exchequer and
- 4ter.1.3 whose business practices conform to the aims and objectives of the Association, and
- 4ter.1.4 executes its activity in respect of the legislation in force in any country within the European sphere and takes care that its staff as well as its contractual partners and shareholders likewise respect their legislation in the countries concerned.
- 4ter.2 Affiliate Members shall exercise neither decision-taking nor voting rights.

## Article 5 Associate Members:

- 5.1 Any person or organisation that is supplying or intending to supply goods or services to Regulars Members or to other Associate Members.



Associate Members shall have access to certain events organised by the Association, especially as exhibitors during Association meetings. They shall exercise neither decision-taking nor voting rights.

## **Article 6 Acquisition of Member Status:**

- 6.1 Applications for admission shall be sent, in writing, to the Secretary General of the Association. Applications for Regular membership shall be accompanied by the State-issued document indicating the directive or authorisation in pursuance of which the applicant operates.
- 6.1bis Applications for Affiliate membership shall be accompanied by the State-issued document indicating the directive or authorisation in pursuance of which the applicant operates and the evidence proving the affiliation to a Regular Member.
- 6.2 Applications for Associate membership shall be accompanied by a copy of the applicant's Articles of Association. All applications shall be accompanied by a copy of the applicant's accounts or financial report for the previous financial year.
- 6.3 The General Assembly shall decide on all applications for admission submitted to it by the Executive Committee. The admission of a Regular or Affiliate Member shall become effective only if it has, by the signature of the person or persons authorised to commit it appended hereto, agreed to abide by these Statutes.
- 6.4 Provisional Member

Upon receipt of an application for admission as a Member, the Executive Committee may approve the applicant, upon such conditions as the Executive Committee may establish, as a Provisional Member until accepted as a Member at the General Assembly or Special Assembly. Failing such acceptance, the applicant ceases to be a Provisional Member.

## **Article 7 Loss of Member Status:**

### **7.1 Resignation**

Any Member may resign from the Association upon written notice of at least six (6) months, but shall remain liable for all dues and obligations up to the date that the resignation becomes effective.

### **7.2 Suspension and Expulsion of Members**

The Executive Committee may suspend or recommend for expulsion, for a final decision by the next General Assembly, any Member who:

7.2.1 fails to pay the appropriate membership dues;

7.2.2 fails to abide by the Statutes or acts in any way prejudicial to the interests of the Association or its members and is therefore found no longer to qualify for Membership.

The Member that shall be expelled or suspended is not entitled to participate in the relevant voting procedure.



## **Article 8 Members' Dues & Resources:**

- 8.1 The basis for the calculation, the different levels, and the applicable amounts of Members' annual dues is decided by the General Assembly on the proposal of the Executive Committee. The annual dues are to be paid by 31 March of each year to the account of the Association. No refund can take place. Those resigning shall remain liable for all dues and obligations up to the date that the resignation becomes effective. Those who are expelled shall continue to be committed for their dues for the entire current year.
- 8.2 Those Members who operate sports betting activities will pay an additional annual due, to be fixed each year by the General Assembly acting on a proposal from the Executive Committee, to be earmarked wholly to cover the association's activities in supporting sport. The total of these additional dues shall be calculated so as to cover 70 % of the total budget for such activities.
- 8.3 Should special circumstances so justify, the Executive Committee may grant a Member payment facilities and may, by way of exception, waive all or part of the dues owing.
- 8.4 The Association may supplement its resources with donations or subsidies received from members or third parties and from proceeds derived from activities related to its corporate objectives. Such donations or subsidies shall be mentioned in the annual accounts.

## **Article 9 Accounting Period:**

The accounting period of the Association shall be the calendar year.

## **Article 10 The Bodies:**

- 10.1 The Association has the following Bodies:
- the General Assembly
  - the Executive Committee, which includes a President and a First and Second Vice-President
  - the Secretary General
  - the Auditors
- 10.2 Any person or Member belonging to a Body shall not participate in any deliberations and/or voting regarding an issue on the agenda whereby he/she and/or his/her organisation has a conflict of interest. Such person shall have the right to be heard by the relevant body before such deliberations take place and leave the meeting during such deliberations.

## **Article 11 The General Assembly:**

### **11.1 Composition**

The General Assembly is composed of all Regular Members who shall be represented by one delegate at every ordinary and/or extraordinary meeting.

## Article 12 Powers and prerogatives:

- 12.1 The General Assembly shall be the supreme organ of the Association. Its decisions shall be binding on all Members of the Association.
- 12.2 The General Assembly shall exercise the following functions and powers:
- 12.2.1 amendments to the Statutes;
  - 12.2.2 final admission and expulsion of Members;
  - 12.2.3 selection of a Member to host the next ordinary General Assembly;
  - 12.2.4 appointment or confirmation of Members of the Executive Committee, specifically the President and First and Second Vice-Presidents, and delegation of powers;
  - 12.2.5 appointment of the representative to an organisation which pursues the same objectives at world level for such period as may be required;
  - 12.2.6 appointment of two internal auditors and one external auditor;
  - 12.2.7 exoneration of the Members of the other Association bodies from liability for the past period;
  - 12.2.8 draft a budget forecast with regard to activities of the branch office(s);
  - 12.2.9 approval of the minutes of the previous Assembly, the audited accounts of the Association as well as of possible branch offices of the previous period;
  - 12.2.10 consideration of reports and recommendations by the Executive Committee;
  - 12.2.11 consideration of such other business as may properly be brought before the Assembly;
  - 12.2.12 all decision-making for the Association not otherwise delegated or specified in these Statutes.

## Article 13 Meetings:

### 13.1 **Ordinary Meeting**

The General Assembly will meet once a year during the second quarter at the latest.

### 13.2 **Extraordinary Meetings**

Extraordinary meetings may be convened on a decision of the Executive Committee or on a written request by at least one-fifth of the Regular Members, addressed to the President of the Association.

- 13.3 The Secretary General shall be responsible for convening the Assembly and shall send Members notice of the Assembly, accompanied by the agenda, at least 30 days in advance.



- 13.4 The Assembly shall be chaired by the President of the Association, but the President may delegate that function. Should this not be possible, the Executive Committee shall designate an Assembly Chairman.

## **Article 14 Agenda:**

- 14.1 The Executive Committee shall prepare the agenda for the General Assembly.
- 14.2 Should at least five Regular Members send a joint letter to the Secretary General requesting that an item be discussed and provided that the item is presented at the latest 60 days before the General Assembly to the Secretary General of the Association in writing, such an item will be on the agenda.
- 14.3 Once notice has been dispatched, the agenda shall be final unless the General Assembly, by a simple majority vote and to the extent that all Regular Members are present, accepts a proposed amendment from the Executive Committee.

## **Article 15 Decisions:**

### **15.1 Quorum and Voting Rights**

- 15.1.1 The normal quorum is constituted by the Members who are present at a General Assembly or a Special Assembly.
- 15.1.2 For the application of Art. 15.2.1 and 15.2.3, a quorum shall be 25% of all Regular Members, while, for the application of Art. 15.2.4, the quorum shall be 75% of all Regular Members.
- 15.2 Only Members who have fulfilled their financial contributions towards the Association and are not suspended shall be entitled to vote. Each Member shall have one vote. The following decisions shall require the affirmative vote of no less than seventy-five percent (75%) of all the votes cast at a General Assembly or a Special Assembly:
- 15.2.1 the change of the Association's offices;
- 15.2.2 the admission, suspension and expulsion of Members of the Association;
- 15.2.3 the amendment or modification of these Statutes;
- 15.2.4 the dissolution of the Association.
- 15.3 All other decisions shall require a majority of all the votes cast at such a meeting.

## **Article 16 Executive Committee:**

### **16.1 Composition of Executive Committee**

The committee shall comprise eleven Executive Members elected for two years, each of them from a different country, except where of the General Assembly accepts two Members from the same country, but from two different Regular Members, by a majority of 75% of the voters.

The members of the Executive Committee are directors from a Regular Member elected in their personal capacity.

## 16.2 **Nominations**

The Secretary General shall notify the membership, at the latest 90 days in advance of a General Assembly at which an election is scheduled, of the names of the persons who have been nominated for election to the Executive Committee.

## 16.3 **Eligibility to serve**

Only persons who are the Chief Executive Officer, Chief Operating Officer, Managing Director or Lead Management Decision Maker of a Regular Member of the Association shall be eligible or can be appointed to serve on the Executive Committee. In the event of a person becoming ineligible, such a person immediately ceases to be a member of the Executive Committee.

## 16.4 **Term of Office**

The term of office for all persons who are elected or appointed to the Executive Committee shall be two (2) years. There shall be no limit on the number of terms a person on the Executive Committee may serve.

## 16.5 **Vacancy/President/Vice-President**

In the event of the office of the President becoming vacant, the First Vice-President will assume the duties of the President for the remainder of the term. The Executive Committee shall, subject to approval by the General Assembly and taking into account the conditions for eligibility, appoint a person selected from among the Members of the Association to fill the vacancy on the Executive Committee and appoint a Second Vice-President.

## 16.6 **Vacancy/Executive Committee**

Candidates who did not receive enough votes for direct election to the Executive Committee shall be deemed to be successor candidates in the event that vacant positions must be filled in the Executive Committee pursuant to Art. 16.6. The order of succession shall be governed by the number of votes received by these candidates.

# **Article 17 Authority/Function/Powers of the Executive Committee:**

## 17.1 **Powers and Prerogatives**

In general, the competence of the Executive Committee shall be to cover the administration of the Association between General Assembly meetings and it shall, in this connection, take any decision conducive to the activity of the Association and the realisation of its objectives.

17.2 The following powers and prerogatives shall also be vested in it:

17.2.1 the drafting of a set of standing orders;

17.2.2 the replacement, until the next General Assembly, of the Secretary General or any Auditor who may resign or become permanently incapacitated.

17.2.3 the provisional admission, suspension and recommendations for expulsion of Members of the Association;



- 17.2.4 the approval of the minutes of the previous Executive Committee meetings, proposed budgets and financial statements submitted by the Secretary General
- 17.2.5 the preparation of annual accounts by no later than end-April of the period following the accounting period;
- 17.2.6 the preparation of the budget for the following period;
- 17.2.7 the submission of an activity report to the General Assembly;
- 17.2.8. deciding on the working procedures for sport monitoring;
- 17.2.9 the definition of employment conditions, including such conditions providing security of employment, of the Secretary General appointed by the Executive Committee;
- 17.2.10 the contracting of external advisers, subject to approval by the General Assembly each time such approval proves to be necessary by virtue of these Statutes.
- 17.2.11 whenever a branch office has been opened, the Executive Committee has the power to appoint a General Delegate in order to promote the interests of such office. The General Delegate will execute his tasks with respect to the rules set out in article 20.
- 17.2.12 establish or dissolve committees as it considers convenient in the light of his statutory mission, as well as determine their composition, missions and methods of work. These committees report to the Executive committee. They have a consultative function.

## **Article 18 Meetings and Decisions:**

- 18.1 The Executive Committee shall meet at least once a year or as often as the business of the Association may necessitate.
- 18.2 Meetings are at the place which will be notified by the President in the invitation, except if the Executive Committee has already decided another place.
- 18.3 Such meetings shall be convened by the President. Three Members of the Executive Committee may demand an extraordinary meeting.
- 18.4 The Executive Committee shall adopt decisions by a simple majority of Members present, however no decision can be taken by the Executive Committee unless 6 Executive members at least are present. In the case of a tied vote, the President shall have the casting vote. The Executive Committee shall take a stand only on the items on the agenda included with the notice of the meeting. They may deviate from this rule if all members present unanimously agree to do so or if the situation at issue is deemed an emergency by a simple majority vote.
- 18.5 The Executive Committee may take a decision by mail or remote consultation unless at least two Members raise an objection.
- 18.6. The minutes of Executive Committee meetings shall be drafted by the Secretary General and signed by the President and the Secretary General.

## Article 19 Secretary General:

- 19.1 The Secretary General shall be appointed for an indefinite period by the Executive Committee.
- 19.2 The Secretary General shall be subordinated and report to the Executive Committee and be responsible for the administration of the business of the Association and the performance of all functions and duties assigned by these Statutes, by the Members at a General Assembly, the Executive Committee or by the President.
- 19.3 The Secretary General shall attend all meetings of the Executive Committee.
- 19.4 The Secretary General shall take care of and defend the interests of the Association and enhance its image. The Secretary General shall also keep such contacts with national, European and international authorities as necessary for the defence of the interests of the Members and provide information to any person interested in the Association's work and purposes.

## Article 20 Tasks of the General Delegate

The General Delegate:

- Is a staff member of the Association in charge of the European public affairs and operates from Brussels;
- Is legally subordinated from an administrative point of view to the Secretary General, but takes his instructions from the President of the Association;
- Reports to the President and the Executive Committee;
- Will execute his tasks as further decided by the Executive Committee.

## Article 20<sup>bis</sup> Ethics Committee

- The Executive Committee can establish an Ethics Committee of high level personalities providing all guarantees for independency and integrity;
- The Ethics Committee shall provide advice to the Members of the Association regarding questions of responsible sports betting, aiming at the protection of the integrity of sport.

## Article 21 Financial Year and Audit:

### 21.1 The Accounting Period

The accounting period of the Association shall be the calendar year.

### 21.2 Audit

The books and accounts of the Association shall be audited every year as soon as possible after the end of the accounting period by an independent external certified auditor designated for this purpose by the General Assembly. In addition, the two internal auditors elected by the General Assembly are responsible for auditing the books on an annual basis. They have to be eligible for the Executive Committee, but shall not be Members of the Committee while serving as internal auditor.

- 21.3 The internal auditors are elected by the General Assembly for a renewable mandate of two years. They shall issue their reports within a period of six months after the end of the accounting year and make them available to the Executive Committee and the General Assembly.

## **Article 22 Working Committees:**

- 22.1 The Executive Committee or General Assembly may set up any working committees, determining their composition and function.

Such committees may make recommendations. They shall have no decision-making powers.

## **Article 23 Signing Authority:**

- 23.1 The Executive Committee shall have the power to appoint any person(s) to sign contracts, documents or other instruments on behalf of the Association.

## **Article 24 Representation:**

- 24.1 The President, the Secretary General or any person appointed by the General Assembly to represent the Association, represents the Association subject to his/her duties and the policy laid down by the General Assembly.

### **24.2 The functions of the President**

The President shall further act as the Chief Executive Officer of the Association and the Chairman of the Executive Committee. It shall be the duty of the President to preside over all meetings of the Association.

### **24.3 Functions of the Vice-Presidents**

In the absence of the President, the duties shall be discharged by the First Vice-President and, in his absence, by the Second Vice-President.

## **Article 25 Dissolution of the Association:**

- 25.1 The Association may be dissolved at any time at any General Assembly.

- 25.2 The liquidation of the Association, once dissolved, shall be conducted by the Executive Committee.

- 25.3 The liquidation shall be approved by the General Assembly, which shall determine the fate of any net assets after liquidation. It may distribute these among Regular Members of the Association or donate them to a charitable organisation or any other non-profit associations having objectives similar to those of the Association.





## **Article 26 Languages of the Statutes:**

- 26.1 These Statutes have been issued in English, French, German and Spanish. The original language is English.
- 26.2 The official languages at any General Assembly shall be English, French, German and Spanish.
- 26.3 In the event of any dispute, all minutes and other records expressed in the English language shall be the determining text.

## **Article 27 Indemnity of the Members of the Executive Committee and Liability of the Members:**

- 27.1 Members of the Executive Committee are not personally liable for the debts and obligations of the Association and shall be indemnified for any costs incurred in proceedings taken against them in the execution of their duties, provided they have not deliberately violated their obligations or duties.
- 27.2 Personal or joint liability of the Members for the liabilities of the Association is excluded.

## **Article 28 Application in time – grand fathering clause**

The articles 4.1.5 to 4.1.7 as well as article 4bis and 6.1bis are only entering into effect as from the date of adoption of these articles by the General Assembly in Barcelona on June 4, 2010 and will only apply to affiliations entered into and applications made after this date. It will therefore not affect the rights existing prior to this date.

Lausanne, April 1999:  
Text article 16.6 modified according to resolution of the General Assembly in June 2005

Lausanne, May 2007:  
Articles 12, 13, 17 and 20 modified according to resolutions of the General Assembly in May 2007

Lausanne, June 2008:  
Articles 2, 17 and 20 modified according to resolutions of the General Assembly in June 2008

Lausanne, June 2010:  
Adjunction Article 28 (re: new Members) according to resolutions of the General Assembly in June 2010

Lausanne, May 2012:  
Adjunction Articles 2.1.13, 4bis, 4ter, 8.2 and 17.2.12 / Modification Article 3, according to resolutions of the General Assembly in May 2012

## **Protocol to the minutes regarding the Statutes of the European State Lotteries and Toto Association**

### **re Article 16:**

#### **Non-executive member of the Executive Committee**

One member will be added by invitation to the Executive Committee as non executive member.

It concerns the President Director General of the hosting member of the Association.

He will only be added to the Executive Committee if he is not elected in the Executive Committee. As non executive member of the Board of Directors he will have a consultative vote.

Lausanne, April 1999  
Text article 16 modified according to resolution General Assembly June 2005

Lausanne, May 2012  
Text article 16 modified according to resolution General Assembly May 2012

## **ANNEX 2.6**



THE  
EUROPEAN  
LOTTERIES

FOR THE BENEFIT OF SOCIETY

## MEMBERS IN THE EUROPEAN UNION

**Austria:** Österreichische Lotterien, **Belgium:** Loterie Nationale/Nationale Loterij, **Bulgaria:** Bulgarian Sports Totalizator, Eurofootball Ltd., **Cyprus:** Cyprus Government Lottery, OPAP (Cyprus) Ltd, **Czech Republic:** Sazka sázková kancelář a.s., **Denmark:** Danske Spil A/S, Det Danske Klasselotteri A/S, **Estonia:** AS Eesti Loto, **Finland:** RAY (Raha-automaattiyhdistys), Veikkaus Oy, **France:** La Française des Jeux, **Germany:** Bremer Toto und Lotto GmbH, Deutsche Klassenlotterie Berlin, GKL Gemeinsame Klassenlotterie der Länder, Land Brandenburg Lotto GmbH, Lotterie-Treuhandgesellschaft mbH Hessen, Lotterie-Treuhandgesellschaft mbH Thüringen, Lotto Hamburg GmbH, Lotto Rheinland-Pfalz GmbH, Lotto-Toto GmbH Sachsen-Anhalt, NordwestLotto Schleswig-Holstein GmbH & Co. KG, Saarland Sporttoto GmbH, Staatliche Lotterieverwaltung (Bavaria), Staatliche Toto-Lotto GmbH (Baden-Württemberg), Sächsische Lotto GmbH, Toto-Lotto

Niedersachsen GmbH, Verwaltungsgesellschaft Lotto und Toto in Mecklenburg-Vorpommern mbH, Westdeutsche Lotterie GmbH & Co. OHG (North Rhine-Westphalia), **Greece:** Greek State Lotteries, OPAP S.A., **Hungary:** Szerencsejáték Zrt, **Ireland:** National Lottery Ireland, **Italy:** Lottomatica Group SpA, Sisal SpA, **Latvia:** Latvijas Loto, **Lithuania:** Olifeja Inc., **Luxembourg:** Loterie Nationale, **Malta:** Maltco Lotteries Ltd, **Netherlands:** De Lotto, Nederlandse Staatsloterij, **Poland:** Totalizator Sportowy Sp. z.o.o., Totolotek S.A., **Portugal:** Santa Casa da Misericórdia de Lisboa, **Romania:** C.N. Loteria Romana S.A., **Slovakia:** TIPOS National Lottery Company a.s., **Slovenia:** Loterija Slovenije d.d., Športna Loterija d.d., **Spain:** Loteria de Catalunya – Entitat Autònoma de Jocs i Apostes de la Generalitat, Organización Nacional de Ciegos Españoles – ONCE, Sociedad Estatal Loterías y Apuestas del Estado, **Sweden:** AB Svenska Spel, **United Kingdom:** Camelot UK Lotteries Ltd.

## **ANNEX 2.7**



THE  
EUROPEAN  
LOTTERIES

FOR THE BENEFIT OF SOCIETY

## MEMBERS FROM NON-EU COUNTRIES

**Azerbaijan:** Azerinteltek CJSC, "Azerlotereya" SJSC, **Republic of Belarus:** CJSC Sport-Pari, **Bosnia and Herzegovina:** Lottery of Bosnia and Herzegovina, Lottery of the Republic of Srpska, **Croatia\*:** Hrvatska Lutrija d.o.o., **FYROM:** National Lottery of Macedonia, **Georgia:** GLC Georgian Lottery Company LLC, **Iceland:** Hapdrætti Háskóla Íslands, Íslensk Getspá, **Israel:** Mifal Hapais – Israel National Lottery, TOTO (The Israel Sports Betting Board), **Kazakhstan:** National Lottery of Kazakhstan,

**Kosovo/UNMIK:** Lotaria e Kosovës, **Republic Of Moldova:** I.M. Loteria Moldovei SA, **Morocco:** La Marocaine des Jeux et des Sports, **Norway:** Norsk Tipping AS, **Russian Federation:** CJSC Interlot, Orglot OOO, OOO Ural Loto, **Serbia:** State Lottery of Serbia d.o.o., **Switzerland:** Société de la Loterie de la Suisse Romande, Swisslos Interkantonale Landeslotterie, **Turkey:** Turkish National Lottery Administration, **Ukraine:** MSL, Ukrainian National Lottery

\* Croatia will be a EU Member as per January 1st, 2013

## **ANNEX 2.8**

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## ORGANIZATION

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# ORGANIZATION

Our Association is governed by the General Assembly composed of all our Members. It is managed by an Executive Committee of eleven members, including the President and the two Vice-Presidents, and the Secretary General.

## EXECUTIVE COMMITTEE

### STICKLER Friedrich

PRESIDENT



Board Member

[Österreichische Lotterien](#)

AUSTRIA

### BLANCHARD-DIGNAC Christophe

1ST VICE-PRESIDENT



Chairman and CEO

[Française des Jeux](#)

FRANCE

### VEENSTRA Tjeerd

2ND VICE-PRESIDENT



Director

[De Lotto](#)

NETHERLANDS

### ALMLID Torbjørn

MEMBER



President and CEO

[Norsk Tipping AS](#)

### HÖLTKEMEIER Hansjörg

MEMBER



Member of the Managing Board

[Deutsche Klassenlotterie Berlin](#)



NORWAY

GERMANY

**KRIŽAN Franci**

MEMBER



Member of the Board

[Loterija Slovenije d.d.](#)

SLOVENIA

**MARTÍNEZ José Miguel**

MEMBER



President

[Sociedad Estatal Loterías y Apuestas del Estado](#)

SPAIN

**PAES AFONSO Fernando**

MEMBER



Vice-President

[SCML - Santa Casa da Misericórdia de Lisboa](#)

PORTUGAL

**PITTEVILS Ivan**

MEMBER



Chief Executive Officer

[Loterie Nationale Belgium](#)

BELGIUM

**SALA Marco**

MEMBER



CEO &amp; Managing Director

[Lottomatica Group S.p.A.](#)

ITALY

**THOMPSON Dianne**

MEMBER



Chief Executive

[Camelot UK Lotteries Ltd.](#)

UNITED KINGDOM

**GENERAL SECRETARIAT****LOBJOIS Bernadette**

Secretary General

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[bernadette.lobjois@european-lotteries.org](mailto:bernadette.lobjois@european-lotteries.org)**JACHIMOW Jennifer**

Assistant to the Secretary General

SWITZERLAND

**ALEXANDRAKIS Evangelos**

Sport Executive Secretary

SWITZERLAND

**JACQUÉRIOZ Mélissa**

Administrative Secretary

SWITZERLAND

**ZAUGG Rita**

Accounting

SWITZERLAND

**EU REPRESENTATION****BUYSE Jutta**

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[jutta.buyse@european-lotteries.eu](mailto:jutta.buyse@european-lotteries.eu)**FOITO E CAMISÃO****Patrícia**

Senior Policy Officer

BELGIUM

**VATIER Clémence**

Policy Officer

BELGIUM

**NODENOT Isabelle**

Office Manager

BELGIUM

The European Lotteries Association's mission is to promote the development and effective communication between Members, the European and international gaming industry, the institutions of the European Union and European Governments.

The "European State Lotteries and Toto Association" or "Association Européenne des Loteries et Totos d'Etat" ("The European Lotteries")  
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## **ANNEX 2.9a**



Michel Barnier  
European Commissioner  
Internal Market and Services  
European Commission  
Contact Information Redacted

Brussels, 23 January 2013

Dear Commissioner Barnier,

As Presidents of the three main associations in the field of gambling, we would like to jointly call for your vigilance on several points of the Action Plan on Online Gambling recently adopted by the European Commission.

Our associations' members together create more than 750,000 jobs through direct and indirect employment in the European Union. Holding exclusive rights, authorisations or licenses in all countries of the European Union, our members offer gambling products, both off- and online, only in those jurisdictions where they are specifically authorised to do so by the respective competent national or regional government.

Our associations' members work for the public interest by both promoting a responsible conduct of business and being strongly involved in all initiatives that aim at strengthening the regulation of gambling at the local, national, regional and international levels.

Our associations and their members actively participated in the consultation process organised by your services following the publication of the Green Paper on online gambling in the internal market and are thus very attentive to the follow-up actions taken since this initiative.

As such, we have mixed feelings about the Communication (and its action plan) adopted on 23 October 2012.



We sincerely welcome some of the initiatives announced in this context. For example, regarding the fight against fraud and money laundering, our associations of course support the expected revision of Directive 2005/60/EC that should extend the scope of the current directive to all gambling activities, insofar as such an extension takes into the reality of many of our activities such as games with low stakes and the reinvestment of the winnings by the players.

The same applies to the promotion of the integrity of sports. The members of EL and EPMA that offer sport betting and contribute significantly to the financing of sport share your analysis that this is an issue that should be dealt with as a priority. We nevertheless wish to highlight that such action must be conducted in a coherent manner in proposing efficient tools and through close involvement of the sport movement.

Finally, our associations support the initiative to facilitate administrative cooperation and cooperation between gambling regulators and of course the principle of protecting consumers and citizens, minors and vulnerable groups in particular.

However, with regard to consumer protection and advertising for gambling, many Member States and responsible actors in the sector risk to see their expectations thwarted. The elaboration of a common set of principles aimed at protecting consumers, the declared aim of the first Recommendation announced, is certainly a laudable goal. However, it appears to us that, for the following significant reasons, this process might start on the wrong foot.

Firstly, this exercise will be meaningless, that is, it will not result in the desired consequences, if it does not prioritise the two main levers of consumer protection: the fight against illegal gambling offers, whose cross-border provision within the EU and from third countries is facilitated by technological advancement; strict rules or the prohibition, after an evaluation conducted at the level of each of the Member States, for the forms of gambling that are the most dangerous in terms of specific risks in terms of fraud, money laundering and addiction, whose consequences, both social as well as the financial can be disastrous for players.

The associations that we chair and their members look forward to the European Commission's support for the adoption of measures ensuring a high level of consumer protection by Member States. However, such measures can only apply to legal operators. They will thus obviously have no effect on unlicensed operators,



who free themselves from complying with the laws of the Member States where they offer their services by operating out of tax havens, just as they also exempt themselves from paying the taxes they should be subject to. These measures will likewise have no effect on the gambling services they offer, which do not offer any guarantee to the European consumers in terms of protection of assets, the payment of winnings, the integrity of games or guarding against excessive gaming.

The Commission and its services however do not seem to show that the fight against illegal gambling offers is a priority by addressing it. The widespread availability of illegal gambling, unlike the regulation of licensed operators that falls within the sole jurisdiction of the Member State(s), is a cross-border problem, requiring therefore a strong and joint response at the level of the European Union.

In light of this, it seems that the European Commission's forthcoming Recommendation on consumer protection will fail to live up to its objective unless the fight against illegal gambling offers, which is a priority shared by Member States and the members of our associations, is to be placed at the centre of this strategy.

The same problem applies concerning measures on responsible advertising. These cannot omit the urgent need to prohibit any commercial communication for illegal gambling offerings, regardless of the medium, in particular TV advertising by illegal operators in certain countries through television channels broadcast by satellite.

The prohibition of commercial communications on illegal gambling offerings, which is in place in several European countries, is indeed one of the most effective measures against illegal gambling, along with establishing lists of sites of authorised gambling operators (white list) and illegal sites (black list), and blocking the access to unauthorised sites and financial flows related to illegal gambling activities. Our associations and their members consider that such enforcement measures against illegal operators must imperatively be integrated into the Recommendation on consumer protection that is being prepared and that it is desirable that they are rapidly adopted by all the Member States, which would need to collaborate closely and continuously to enhance the effectiveness of their implementation.

More generally, we believe that the Commission has not sufficiently taken into account the specificities of our sector whose activities cannot be considered services as any other services. We recall that the vast majority of EU Member States are in



favour of a national regulation of gambling. Due to the known and recognised risks, our sector requires special attention, adapted regulations to deal with the inherent dangers in gambling in the most appropriate way, taking into account the cultural, social and historical features from each Member state. The specificity of this sector as well as the consequences that derive from it must be taken into account during the discussions on the planned initiatives, including on consumer protection and responsible advertising. Should this not be the case, the dangers posed by gambling will not be tackled in a sound and responsible way.

In order to further explain to you our concerns and move forward together towards constructive solutions, we would like to request a joint meeting with you.

We remain at your disposal as well as of your staff for any further information and we look forward to your reply.

Yours sincerely,

Friedrich Stickler  
President  
The European Lotteries  
(EL)

Philippe Germond  
President  
European Pari Mutuel  
Association (EPMA)

Ron Goudsmit  
President  
European Casino  
Association (ECA)

## **ANNEX 2.9b**



EUROPEAN COMMISSION

CONSULTATION ON THE REPORT ON  
THE APPLICATION OF THE THIRD  
ANTI-MONEY LAUNDERING DIRECTIVE

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## **THE EUROPEAN LOTTERIES (EL) SUBMISSION**

General Secretariat: 36 Avenue de Béthusy, CH-1005 Lausanne  
Brussels office: EL EU Representation, 67 Wetstraat/Rue de la Loi, B-1040 Brussels  
Interest Representatives Register ID 97609783845-15

**BRUSSELS, 12 June 2012**

## INTRODUCTION

The European Lotteries (EL) welcomes the European Commission's Report on the implementation of the Third Anti-Money Laundering Directive (AMLD)<sup>1</sup>, which identifies the key themes in the light of the review of the existing rules, notably an extension of the scope of the AMLD to forms of gambling beyond casinos.

EL is the European umbrella organisation of national lotteries operating games of chance for the public benefit in 44 European countries – including all 27 EU Member States – and is by far the largest representative European umbrella organisation in the field of gambling.

EL is an association representing state lotteries and lotteries licensed by the state, thus bringing together state-owned and private operators, both profit and non-profit, who operate on behalf of the state. EL's members only offer gambling and betting services in the jurisdictions in which they are licensed by the respective national government. EL's EU members contribute more than 20 billion EUR p.a. to the State budgets and the funding of sport, culture, social projects, research and other causes of general interest. Further information on our organisation is available at [www.european-lotteries.org](http://www.european-lotteries.org).

The turnover from lottery games and sports betting of EL members in the EU amounts to nearly 77 billion EUR, the gross gaming revenue (the stakes minus the prizes) to more than 34 billion EUR.<sup>2</sup> EL's members offer their games through online distribution channel(s) in 20 out of 27 Member States. In view of the financial flows entailed by these figures, issues regarding money laundering, fraud and connected criminal activities are among EL and its members' foremost concerns, and we consider tackling them crucial.

EL thus welcomes the opportunity to participate in the broad consultation process organized in the context of European Commission's report with a view to a proposal for a 4<sup>th</sup> AML Directive aiming at enacting effective rules to combat money laundering and terrorist financing in order to enhance the soundness and the integrity of the financial system and – of direct concern to EL's members – the gambling sector.

In this submission, we elaborate upon the specific risks for money laundering and security in the field of gambling, beyond casinos alone – which are already included in the scope of the current AMLD – and express our recommendations in the perspective of the

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<sup>1</sup> Directive 2005/60/EC of the European Parliament and of the Council of October 26<sup>th</sup>, 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

<sup>2</sup> The figures are for the year 2011.

extension of the current AML rules at European level to the gambling activities to which they are not yet applicable at European level. We note however, that some Member States have already in their application of the current AMLD extended the scope of its application to forms of gambling beyond casinos at national level.

Beyond our general remarks, our comments pertain to the following specific sections of the European Commission's Report on the application of the Anti-Money Laundering Directive:

- Applying a risk-based approach (Section 2.1 of the Commission's Report)
- Broadening the scope beyond the existing obliged entities: the gambling sector (Section 2.3.2 of the Commission's Report)
- Customer Due Diligence (Section 2.4 of the Commission's Report)
- Beneficial ownership (Section 2.6 of the Commission's Report)
- Reporting obligations (Section 2.7 of the Commission's Report)
- Self-regulatory bodies (Section 2.11 of the Commission's Report)

EL's submission should be viewed as complementary to the individual contributions to this consultation submitted by some of our members.

## **SPECIFIC RISKS FOR MONEY LAUNDERING IN THE FIELD OF GAMBLING AND BETTING**

Gambling is not an ordinary economic activity, but an activity of very special nature involving public order and social order issues. Given the high financial flows inherent to any gambling activity, it is an area with a high vulnerability to fraud and money laundering where not regulated appropriately, or where the existing regulation is not enforced.

The gambling sector is therefore attractive for money launderers and criminal infiltrations in general. Although casinos are long known for being targeted by criminals, the other gambling activities are far from being immune from the money laundering risk, above all where there is a high presence of unauthorized operators and the Member States have has no strong enforcement measures in place to tackle them.

Money laundering (ML) is often associated with various other criminal activities involving in particular organized crime such as tax evasions, corruption, fraud and match fixing, gambling being used as a vehicle for laundering the proceeds of such criminal activities<sup>3</sup>.

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<sup>3</sup> The link between ML, match-fixing and organized crime in particular has been clearly established, following notably the recent 2012 study 'Sports betting and corruption - How to preserve the Integrity of Sport' conducted by the *Institut de*

A core responsibility of EL members, who have a clear public order mandate from their national governments, is to ensure that gambling is organised and operated honestly by ensuring by all appropriate means, in particular high security surveillance standards and security systems, in such a manner that their activities minimise the opportunities for criminal action. An effective regulatory framework with high-level AML requirements is central to the achievement of this goal.

In the light of the specific risks mentioned above, the main points highlighted in the Commission's Report on the Application of the AMLD which will lead to proposals by the Commission for the forthcoming revision of the Directive prompt the following comments and recommendations from EL –

### **APPLYING A RISK-BASED APPROACH**

EL agrees with the principle of a risk based approach as it takes into account the specific money laundering risk for a given practice. In case of an extension of the scope of the current AMLD to other forms of gambling beyond casinos, we point out that the knowledge that gambling operators have of their player is not and should not be comparable to the information that banks and financial institutions have of their customers, given the different nature of the services provided by the gambling operators and banks/financial institutions. In case of an extension of the scope of the Directive to forms of gambling beyond casinos (see below), **specific indications for the gambling sector should be provided.**

### **BROADENING THE SCOPE: THE GAMBLING SECTOR**

The Report rightly addresses the question of an extension of the scope of the AMLD to other forms of gambling beyond casinos.

As noted already in our 2011 submission to the European Commission's Green Paper on online gambling, EL and its members welcome such an extension. In order to be effective, we believe that such an extension of the scope needs to take into account the specific features of the gambling services that are to be covered by this initiative.

## A) Land-based gambling activities

Close attention should be paid to the feasibility and the adjustment of the conditions under which these requirements and the other obligations imposed by the directive on casinos could be extended to **land-based activities**, in particular offline lottery games and sports betting.

The players' anonymity which is an established tradition in many Member States is to be duly taken into consideration in this respect. Moreover, most of the offline gambling services offered by EL members should be subject to an adapted regime given the fact that they offer less opportunities in terms of ML with regard to:

- lower frequency of play (draw games, contrary to casino games for instance),
- low average stakes and winnings (instant tickets and numerical games),
- lower risk of collusion between players (mutual and traditional fixed odds sports betting, contrary to cash poker and other form of betting for example),
- low payout ratio.

Within the spirit of a risk-based approach, the objective of the Directive could be achieved where land-based gambling activities such as lotteries and most forms of betting are concerned through the **identification and verification of the winners' identity where their prize exceeds a predetermined threshold**, as it is already the case in several Member States. Such an identification of a winner's identity should take place by the best possible means available in a given Member State. For instance, it is not feasible that a gambling operator could ask for information regarding type of employment, salary, family situation etc., as a bank or a financial institution can legitimately do. Another solution could also be to limit the use of cash above a certain threshold and use "traceable" means of payments. This mean has also the advantage to provide more information to the financial institutions to detect and denounce suspicious transactions.

With regard to the identification of players/winners of land-based lottery and sports betting products, we stress that the responsibility for the correct identification of the players lies with the retailers who operate under authorization of the operator with specific sanctions on them. This case is fundamentally different from the case of an agent of a bank or financial institutions. While operators are active in the control of the authorized retailers and could also commit in a specific program of education at this regard, notably through regularly conducted mystery shopping exercises, absolute

control is never possible, though an operator should of course withdraw the authorisation of a retailer that has been identified as infringing on legislation.

## **B) Online gambling services**

Extending the scope of the provisions of the Third AMLD that are applicable to casinos to all forms of **online gambling services** enables to make full use of the opportunities and functionalities offered by ITC and the new online gambling platforms – *e.g.* customer identification at the first registration that is the creation of the player account, secure payments and traceability of flows, allow for a solid identification of consumers. As noted in our remarks on a Risk Based Approach and Customer Due Diligence, in order to be effective, it is important to take into account that the type of information that online gambling operators have about their players is not comparable to the information banks have about their customers.

We further highlight that certain forms of betting (*e.g.* live betting, and particularly spread betting, exchange betting and surebet) and specific forms of payment (*e.g.* anonymous prepaid cards) are the most exposed to money laundering risks and we point out the higher vulnerability for money laundering practices as a consequence of a high payout ratio.

## **CUSTOMER DUE DILIGENCE**

The Report notes that the third AMLD sets out requirements for customer due diligence on three levels (CDD/EDD/SDD). Our observation on this section are in line with our comments on the Risk-Based Approach (see above) – in case of an extension of the scope to other forms of gambling beyond casinos, which we support, the framework should take into account that the data that gambling operators have of their players (and which they can legitimately ask from their players) is not comparable to the one available to financial institutions. We recommend that gaming operators should respect the anomaly indicators (key indicators) designed by the competent national authorities in addition, of course, to the specific ones they have elaborated themselves based on their experience.

## **BENEFICIAL OWNERSHIP**

EL wishes to underline the importance of the principle of identification of the beneficial owner(s) and / or the effective senior director(s) and officer(s) of the entities mentioned in Recital (39) and Article 36 as regards casinos and calls for its extension to all gambling activities.

The requirement of such an identification, as it should be laid down by national legislation in all Member States, is in fact crucial in order to uncover potential links and collusions between organised crime and unscrupulous or dishonest professionals. Therefore, this requirement, which is already in place in some Member States, appears to be essential for the achievement of the objective of the Directive by avoiding ML risks carried not only by customers but also by the applicants for gambling licenses.

## **REPORTING OBLIGATIONS**

The Commission's report addresses the possibility of introducing a clarification of the provision for timely generic feedback by Financial Intelligence Units (FIUs) to reporting entities. EL would welcome such a clarification, which would allow the operators to further strengthen their actions against money laundering threats.

## **SELF-REGULATORY BODIES**

While we acknowledge that professional organizations have a role to play with regard to ML issues, for example in the establishment of sectoral guidelines, the relevant public authorities' prerogatives as well as the national gambling regulators' functions must not be infringed upon.

EL and its members consider that the compliance with AML requirements and, in more general terms, with public order requirements where the gambling sector is concerned, is too important to be left to the appraisal and monitoring of the industry and should remain under tight State control.

*June 2012, The European Lotteries*

## **ANNEX 2.9c**



# EUROPEAN COMMISSION

## CONSULTATION ON PROCEDURES FOR NOTIFYING AND ACTING ON ILLEGAL CONTENT HOSTED BY ONLINE INTERMEDIARIES

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### **THE EUROPEAN LOTTERIES (EL) SUBMISSION**

General Secretariat: 36 Avenue de Béthusy, CH-1005 Lausanne  
Brussels office: EL EU Representation, 67 Wetstraat/Rue de la Loi, B-1040 Brussels  
Interest Representatives Register ID 97609783845-15

## INTRODUCTION

The European Lotteries (EL) welcomes the opportunity to participate in the European Commission consultation on procedures for notifying and acting on illegal content hosted by online intermediaries, which specifically mentions illegal gambling as a form of illegal content.

In this submission, we elaborate on the major importance of enforcement of legislation against illegal operators by Member States (I). We however express our concern that the eCommerce Directive does not provide a legal basis for enforcement through Notice and Action (N&A) against illegal content where gambling is concerned (II). Responding to concrete questions of the questionnaire we outline some of the more general considerations to be taken into account with regard to Notice and Action Procedures (III).

The response to the consultation by the association is complementary to individual submissions by its members.

## ABOUT THE EUROPEAN LOTTERIES (EL)

EL is the European umbrella organisation of national lotteries operating games of chance for the public benefit in 44 European countries – including all 27 EU Member States – and is by far the largest representative European umbrella organisation in the field of gambling.

EL is an association representing state lotteries and lotteries licensed by the state, thus bringing together state-owned and private operators, both profit and non-profit, who operate on behalf of the state. **EL's members only offer gambling and betting services in the jurisdictions in which they are licensed by the respective national government.** EL's EU members contribute more than 20 billion EUR p.a. to the State budgets and the funding of sport, culture, social projects, research and other causes of general interest. Further information on our organisation is available at [www.european-lotteries.org](http://www.european-lotteries.org).

## I THE NEED FOR ACTION BY MEMBER STATES AGAINST ILLEGAL GAMBLING OPERATORS

Throughout the EU, operators that offer products in countries where they do not hold a licence are flooding consumers with illegal products, disrespecting the national legislations and being unfair competition for the authorised operators.

EL has thus consistently urged Member States to protect consumers by adopting efficient law enforcement measures against illegal gambling, accompanied by the administrative resources they require.

Consumers need to be protected through efficient law enforcement from harmful and unregulated online gambling services that are offered by undertakings operating without authorization / licence nor exclusive rights required by legislation, and by doing so, avoiding compliance with responsible gambling, consumer protection, anti-fraud and anti-money laundering rules.

In its recently adopted **White Paper on a sound and sustainable gambling policy for the benefit of the society**, EL has subsequently again urged Member States to adopt efficient law enforcement measures against illegal gambling offering and the Commission to actively promote an enhanced cooperation between national authorities in this area.

These measures need to be adapted to the proliferation of illegal gambling activities using new technologies like internet on new platforms such as mobile phones and smartphones, tablets, iTV and others. These measures will not separately lead to a satisfactory solution, but a combination of these different tools is essential:

- **IP/DNS blocking mechanisms of illegal gambling websites**, meaning making them immediately unavailable to unsuspecting consumers
- Defining **payment solutions** that guarantee full traceability of the transactions and blocking measures for transactions for gambling and financial flows from and toward illegal gambling operators;
- **Banning advertising for illegal gambling offerings** which is one of the primary means by which illegal operators draw unsuspecting players to their websites. It is to be considered to sanction not only the advertising agencies but also affiliate service suppliers, e.g. the suppliers placing hyperlinks and banners
- **setting up of black lists** indicating those operators that are infringing on the national legislation by offering their products illegally to consumers in that country, **as well as white lists** that provide consumers with the important information on what operators operate legally, under control by the State;
- **implementing the “unfair operator principle”** whereby Member States should act in coordination and a consistent manner by refusing to grant or renew licenses to an operator which contravenes another Member State legislation notably by offering his gambling products illegally somewhere in the EU.

## II THE E-COMMERCE DIRECTIVE IS NOT THE CORRECT LEGAL BASIS FOR THE DEVELOPMENT OF N&A PROCEDURES AGAINST ILLEGAL GAMBLING OPERATORS

While we consider strict enforcement against illegal operators essential, we nevertheless consider that Article 14 of the e-Commerce Directive, addressed in this consultation as the potential basis for a Notice and Action procedure, cannot apply horizontally to any kind of illegal content and in particular to illegal gambling (cf. Question 24 of the EC questionnaire).

Online gambling is one of the activities of information Society services that are specifically excluded from the scope of the e-Commerce Directive. Article 1, 5 (d), third indent, specifies that the Directive “*shall not apply to the following [activity] of information society services: gambling activities which involve wagering a stake with monetary value in games of chance, including lotteries and betting transactions*”.

Recital 46 in the preamble of the e-Commerce Directive clarifies that, notwithstanding the general rule regarding limitation of liability of internet service providers, blocking procedures are taken in accordance with procedures established for this purpose at national level. The legislations regarding gambling differ substantially between all Member States, as there is no harmonisation in this field. The Court of Justice of the European Union (CJEU) has recognised that this is due to the fact that gambling is an area where there are significant moral, religious and cultural differences between the Member States, meaning that Member States are free to set up their own gambling regime in line with a gambling policy they see fit for their own citizens and taking into account national specificities.

As a result, it would be impossible to create a single legal framework for all N&A procedures covering both gambling as well as services that are covered by the e-Commerce Directive. Gambling has been left out of any type of harmonisation initiative (e.g. the e-Commerce Directive but also the Services Directive etc.) in the past and diverging from this path with respect to N&A procedures might hamper Member States in enforcing their respective gambling policies.

Taking down illegal content relating to gambling exclusively falls within the competence of national authorities. Initiative for efficient enforcement against illegal operators must thus take place at the Member State level and through an enhanced administrative cooperation between national regulators in this area.

### III CONSIDERATIONS WITH REGARD TO NOTICE AND ACTION PROCEDURES RELATING TO ILLEGAL GAMBLING

While we welcome N&A procedures that are voluntarily set up by hosting services, EL highlights that they can never be the exclusive means of notification of illegal content. Self-regulation, as long as it is in line with the existing legislative framework, can only complement procedures, regulatory and enforcement measures put in place by the public authorities, but never replace it.

With regard to gambling, the Member States themselves are primarily responsible for protecting consumers and tracking down illegal websites. CJEU case-law with respect to the e-Commerce Directive stresses the principle that internet service providers cannot be expected to bear the sole responsibility for identifying illegal content. Whereas online gambling services are excluded from the scope of this Directive, we believe this principle can also apply to intermediaries providing their services to illegal gambling operators.

Similarly, while we welcome the setting up of the possibility for consumers to report illegal content, they can never be expected to bear the responsibility of identifying illegal content. Again, it is Member States that need to protect consumers against an illegal offering. It could for instance be foreseen that in some Member States, consumers would need to notify illegal content to a central gambling authority.

Furthermore, when it comes to illegal gambling, not only internet service providers need to be informed by the authorities but also consumers. It is in the best interest of consumers to gamble on regulated and trustworthy websites so they should know not only which are the legal websites in their jurisdiction but also which are the illegal ones.

The horizontal N&A initiative should not diminish current possibilities to act against illegal gambling. In as far as this initiative would apply to gambling, the competent authorities should be able to give notice to internet service providers by way of appropriate means as defined by their national law. According to the information collected from our members, the publication of a blacklist of illegal gambling websites seems to be a very efficient tool in this regard. Such blacklists can at the same time serve as a notice to internet service providers and as information to consumers.

## **ANNEX 2.9d**



THE  
EUROPEAN  
LOTTERIES

FOR THE BENEFIT OF SOCIETY

THE EUROPEAN LOTTERIES  
**WHITE PAPER**

ON  
A SOUND AND SUSTAINABLE  
GAMBLING POLICY  
FOR  
THE BENEFIT OF SOCIETY

JULY 2012







THE  
EUROPEAN  
LOTTERIES

FOR THE BENEFIT OF SOCIETY

# THE EUROPEAN LOTTERIES WHITE PAPER

## ON A SOUND AND SUSTAINABLE GAMBLING POLICY FOR THE BENEFIT OF SOCIETY

The debate on gambling at EU level is gaining new momentum following the Green Paper consultation process launched by the European Commission last year. Ahead of the autumn 2012 European Commission Action Plan on Online Gambling, there is a need to discuss and to explore the possibilities for a sound and sustainable policy for gambling in the EU.

**This Paper presents The European Lotteries' policy proposals** to the EU institutions and the Member States of the European Union, based on the fundamental principles adopted by our association.

The European Lotteries (EL) is the European umbrella organisation of national lotteries operating games of chance for the public benefit in **44 European countries** – including **all 27 EU Member States**. EL members together have a **turnover of more than 80 billion EUR**. They employ more than 19 000 people in the EU and create **more than 290 000 jobs** through indirect employment.

EL brings together state-owned and private operators, both profit and non-profit, who operate on behalf of the state. EL's members only offer gambling and betting services in the jurisdictions in which they are licensed by the respective national government.

**In 2011, EL's members contributed more than 25 billion EUR to the State budgets** and the funding of sport, culture, social projects, research and other causes of general interest. Almost **70 per cent of the gross gaming revenue** generated by EL members (the stakes minus the prizes) **was returned to society**, equalling on average 46 Euros per capita.

**We stand for a system in which the state ensures that the proceeds are used for the benefit of society as a whole rather than being a source of private profit.**



## THE EUROPEAN LOTTERIES

# PRINCIPLES FOR GAMBLING POLICY

EL and its members have unanimously adopted and act on common values and principles – **solidarity, integrity, subsidiarity and precaution**. These principles are in line with the values and principles expressed by the Council and the European Parliament and should form the foundations of gambling policy in the EU and in the Member States in order to provide legal certainty for the public benefit model that EL members represent.

**SUBSIDIARITY:** Member States hold the primary competence to organise and regulate gambling activities. They need to work together to guarantee law enforcement against illegal operators and to protect consumers. The European Lotteries are determined to continue fighting together with the public authorities against illegal gambling.

**PRECAUTION:** Consumers need to be protected from harmful and unregulated gambling offerings through effective and efficient law enforcement. Given the high financial flows inherent to any gambling activity, gambling is an area with high vulnerability to fraud and money laundering where not regulated appropriately or where the existing regulation is not enforced.

**SOLIDARITY:** Lotteries in Europe raise more than 25 billion EUR for the State budget and specific good causes. The specific features and the sustainable contributions from lotteries to society need to be recognised and taken into account in any coordinated approach at EU level.

**INTEGRITY:** As the historic partners of sport, we defend the European sport model against threats from match-fixing and other criminal activities and call for further measures to protect sport integrity.



# THE EUROPEAN LOTTERIES POLICY PROPOSALS TO THE EU INSTITUTIONS AND THE MEMBER STATES OF THE EUROPEAN UNION

## THE EUROPEAN LOTTERIES:

- 1. Calls upon the European Institutions** – and in particular on the European Commission with regard to its forthcoming Action plan on online gambling – **to clearly recognise Member States’ primary competence in the field of gambling**, in particular with regard to protecting public order and consumers. These two objectives are first and foremost achieved through efficient law enforcement measures aiming at combating illegal operators and protecting sport integrity.

This means that the European Institutions should recognise that:

- Licences for gambling products are issued only at national/regional level and remain national/regional in scope
- The principle of mutual recognition does not apply in the field of gambling
- There is no such thing as a “grey” market: an operator is either authorised by the Member State where he provides his services, or not authorised – and thus illegal
- The responsibility for the protection of consumers lies with the Member States
- Internal consistency of a Member States’ gambling policy is a national competence.

- 2. Invites the Council and its Working Groups to study and make proposals for Information exchange and administrative coordination between Member States in order to fight together against illegal operators.**

- 3. Calls on Member States to protect consumers by adopting efficient law enforcement measures against illegal gambling:**

- IP/DNS blocking mechanisms
- Defining payment solutions and blocking measures for transactions
- Banning illegal advertising
- Setting up of black lists
- Explore an institutionalised solution for coordination between the National Regulatory Authorities, inspired from the administrative cooperation schemes that exist in other sectors.



THE EUROPEAN LOTTERIES  
**POLICY PROPOSALS  
TO THE EU INSTITUTIONS AND  
THE MEMBER STATES OF THE  
EUROPEAN UNION** (CONTINUED)

4. **Calls on Member States to implement the “unfair operator principle”**, according to which a gambling operator can only operate or bid for a national license in one Member State if it does not operate illegally in another EU Member State.
5. **Recommends the extension of the scope of the Third Anti-Money Laundering Directive** to other forms of online and offline gambling beyond casinos. An adapted regime for offline lotteries and most forms of offline sports betting services should take the form of the identification and verification of the winners’ identity as soon as their prize exceeds a predetermined threshold.
6. **Calls on the recognition of the fundamental contributions of Lotteries for the benefit of European society** and the specific role of lotteries in all discussions at EU level, as agreed by the Council in its December 2010 Conclusions.
7. **Calls for the preservation of Sport integrity** through:
  - The adoption of a common definition of sports fraud as a criminal offense at EU-level under Article 83 TFEU
  - The adoption of a definition of sports fraud as a criminal offense under national legislation in all the Member States of the EU
  - The adoption of incentive measures aiming at “developing the European dimension of sport ” by “promoting fairness and by protecting the physical and moral integrity of sportspersons” under Article 165 TFEU
  - Setting up an EU platform for exchange of information and management of the cross border aspects of sport integrity financed by contributions from the sport betting operators, taking into consideration the direct and indirect contributions, other than commercial communication, made by some operators
  - Firm support from the EU Institutions and Member States to any initiative in multilateral fora (Council of Europe, UNESCO) towards an International Convention for the preservation of sports integrity or the creation of an International Agency for Sports integrity.



## 1. EUROPEAN INSTITUTIONS SHOULD RECOGNISE THE PRIMARY COMPETENCE OF THE MEMBER STATES IN THE FIELD OF GAMBLING

### Gambling, Member States, the EU and subsidiarity

The European Parliament has clearly endorsed the latitude of Member States to determine the conditions of their own gambling market in its 15 November 2011 Resolution on Online Gambling in the Internal Market. In its Resolution, the European Parliament highlighted “Member States’ discretion in determining how gambling is organized” and noted: “in this context the decision by a number of Member States to ban all or certain types of online gambling or to maintain government monopolies on that sector, in accordance with the jurisprudence of the Court of Justice”.

The primary competence of Member States to regulate the gambling sector has also been recognised by the Council.

The CJEU has ruled that Member States have a very wide discretionary margin in determining their gambling policy. This is because gambling is an activity that is potentially very harmful for consumers and that can also be, if not regulated appropriately or where the regulation is not strictly enforced, attractive for criminal purposes such as money laundering.

Member States are thus entitled to determine: the objectives of their restrictive gambling policy, the requirements for ensuring the level of consumer protection and preservation of public order that they consider are necessary on their territory (including the number of operators, the type and volume of games allowed, the size of the stakes and how games are operated), which enforcement actions to take and, finally whether to impose criminal or other sanctions on the unauthorised provision of games or the advertising of unauthorised games.

EL calls for the Commission in its forthcoming Action Plan to state as clearly as the European Parliament, the Council and the CJEU have that the following fall within the competence of the Member States:

- **Licences for gambling products are issued only at national/regional level and remain national/regional in scope**

Member States control the gambling offering on their territory by giving the authorisation to a single or to multiple operators, under strict state control, to offer gambling products. Member States and regions should respect each other’s jurisdiction in this regard and not issue licences with the claim that they can also be used in other parts of the European Union or in another region of a Member State.



- **The principle of mutual recognition does not apply in the field of gambling**

Mutual recognition would undermine the specific systems that Member States have set up to control the gambling on their territory in order to protect consumers from gambling addiction, fraud and money laundering. The CJEU has confirmed this on several occasions, most notably in the landmark 2009 Liga Portuguesa case where it ruled that Portugal was not required under EU law to allow an online operator to offer products to Portuguese consumers just because the operator held a licence somewhere else in the EU.

- **You are either legal or you are not – there is no such thing as a ‘grey market’**

Some recent policy documents erroneously refer to the existence of a “grey market” in some Member States: a market consisting of operators that hold a licence somewhere in the EU, but not in the country where they offer their products. However, there is no such a thing as a “grey market” for gambling: gambling operators are either authorised by a Member State to offer products to consumers, and therefore legal, or not authorised, and therefore illegal.

There is no difference between illegal operators based inside and outside of the EU: Illegal operators are harmful and represent unfair competition to authorised operators. They avoid the cost of complying with the consumer protection, anti-fraud and anti-money laundering requirements set out by the Member States and violate taxation and financing requirements.

- **The responsibility for the protection of consumers lies with the Member States**

It's essential that Member States have a proper regulatory framework for consumer protection and that they enforce it. This is a means of ensuring that the gambling policy they pursue is consistent and that consumers are protected from gambling offerings that represent a disproportionately high risk for gambling addiction. Member States should set the conditions under which gambling products can be offered.

Member States are best placed to decide on the restrictive measures for consumer protection (e.g. a limitation on stakes) in light of the national/regional specific features, such as the culture and traditions of their population with respect to gambling.

A legislative framework does not stand in the way of additional voluntary self-regulation and certification processes set up by operators. But self-regulation can never replace legislation and strict control and enforcement by the authorities.



Strong and efficient law enforcement measures adopted by Member States aiming at combating illegal operators, which do not respect the requirements set up by national legislations, provide the primary and best guarantees for the protection of consumers.

- **Internal consistency of a Member States' gambling policy is a national competence**

Member States have to maintain a consistent and systematic policy: a policy that not only genuinely serves the purpose of protecting consumers and/or maintaining public order, but also takes into account all the gambling offering available on the territory of a Member State (not only lotteries but also slot machines, casinos and in general, the online as well as the offline products).

Maintaining a consistent and systematic policy requires having the right to have a constant search for a dynamic balance: the balance between seeking a genuine diminution of gambling opportunities while at the same ensuring that the legal gambling offering is attractive enough to draw consumers away from a potential illegal and harmful offering. The search for a dynamic balance is a complex matter which has to be undertaken at the level of each Member State. Internal consistency of gambling policy is thus a national competence – if nevertheless the question is addressed at EU level, the discussion needs to take place at the political level.

## **2. A CLEAR ROLE FOR THE COUNCIL AND ITS WORKING GROUPS: PROPOSALS FOR INFORMATION EXCHANGE AND ADMINISTRATIVE COORDINATION BETWEEN MEMBER STATES IN ORDER TO FIGHT AGAINST ILLEGAL OPERATORS**

The Working Groups of the Council should explore the different types of information exchange and administrative cooperation that are possible so that Member States can cooperate in solidarity, helping each other in the fight against the illegal gambling offering.

Exchange of information and administrative coordination can help Member States to respond in a coordinated and rapid manner to public order issues and help each other to ensure transparency and traceability, monitor financial flows, fighting money laundering, implementing blocking measures and procedures for illegal gambling activities and advertising for illegal gambling.



### **3. MEMBER STATES ARE TO PROTECT CONSUMERS THROUGH EFFECTIVE LAW ENFORCEMENT MECHANISMS AGAINST ILLEGAL OPERATORS**

The primary means of protecting consumers is efficient law enforcement against illegal gambling, combined with a strict state control of the legal gambling offering.

EL urges Member States to protect consumers by adopting efficient law enforcement measures against illegal gambling, accompanied by the administrative resources they require.

These measures need to be adapted to the proliferation of illegal gambling activities using new technologies like internet on new platforms such as mobile phones and smartphones, tablets, iTV and others. These measures will not separately lead to a satisfactory solution, but a combination of these different tools is essential:

- **IP/DNS blocking mechanisms**

IP/DNS blocking of illegal gambling websites means making them immediately unavailable to unsuspecting consumers and is thus an essential tool to limit the illegal gambling. EL thus urges Member States to set up specific procedures to this regard.

- **Defining payment solutions and blocking measures for transactions**

Limiting the payment methods is fundamental in order to have full traceability of the transactions. The measure should be accompanied by an obligation for the bank and credit card institutions to report transactions for gambling and block suspicious payments.

- **Banning illegal advertising**

Banning illegal advertising is essential to fight illegal gambling as advertising is one of the primary means by which illegal operators draw unsuspecting players to their websites. Member States should consider sanctioning not only the advertising agencies but also affiliate service suppliers, e.g. the suppliers placing hyperlinks and banners.





- **Setting up of black lists and white lists**

Countries that have not yet done so should consider following the example of some Member States that have set up black lists and white lists. A black list indicates those operators that are infringing on the national legislation by offering their products illegally to consumers in that country. Operators are placed on a black list after a careful examination by the regulatory authority in charge. In line with agreements with financial institutions and internet service providers, payment and access to websites are blocked as soon as they appear on a black list. White lists provide consumers with the important information on what operators operate legally, under control by the state.

- **Explore an institutionalised solution for coordination between the National Regulatory Authorities, inspired from the administrative cooperation schemes that exist in other sectors**

Coordination between the National Regulatory Authorities is important in order to tackle the regulatory challenges that the rising illegal gambling offer represents, in particular the offering that is using new technologies. An institutionalised solution is necessary as informal meetings and bilateral agreements between the National Regulatory Authorities, as they exist today, are not sufficient.

#### **4. THE UNFAIR OPERATOR PRINCIPLE: MEMBER STATES SHOULD ACT IN COORDINATION AND REFUSE LICENCES TO OPERATORS THAT OFFER GAMBLING PRODUCTS ILLEGALLY ELSEWHERE IN THE EU**

Today, some operators apply for a licence to operate legally in one of the countries of the EU, while they are at the same time breaking the law in another EU country by flooding consumers with illegal products, disrespecting the national legislation of that country and being unfair competition for the authorised operators.

**Member States should act in coordination: if an operator is offering his gambling products illegally somewhere in the EU, he should not be allowed to receive or retain a licence in another EU country.**

Both the European Parliament and the European Economic and Social Committee confirmed their support for the unfair operator principle in 2011. We call on the European Commission to also integrate the unfair operator principle in its forthcoming Action Plan on Online Gambling.



## 5. EXTENDING THE ANTI-MONEY LAUNDERING DIRECTIVE TO OTHER FORMS OF GAMBLING BEYOND CASINOS

The gambling sector – and in particular the online gambling offering – can be highly attractive for money laundering purposes and related criminal activities, notably fraud and match-fixing, where not regulated appropriately or where the existing regulation is not enforced.

**EL members express their firm support to extending the Third Anti-Money Laundering Directive to all forms of online gambling services.**

Where land-based gambling activities such as lotteries and most forms of betting are concerned, the objectives of the Directive would be best achieved through the identification and verification of the winners' identity where their prize exceeds a predetermined threshold, as it is already the case in several Member States.

## 6. RECOGNISING THE CONTRIBUTIONS OF LOTTERIES FOR THE BENEFIT OF EUROPEAN SOCIETY

**We call on all EU Institutions to take into account the sustainable contribution of lotteries to society, in line with the 2010 Council conclusions on the framework for gambling and betting in the EU Member States, in all discussions at EU level.**

The fundamental characteristic of state lotteries – and the key difference to the commercial gambling industry – is that the state lotteries operate games of chance for the public benefit. In 2011, **EL members contributed more than 25 billion EUR to the State budgets and the funding of causes of general interest.**

For thousands of civil society organisations in the EU, funding from lotteries represents a reliable source – particularly in times of economic crisis – and an indispensable part of the income that allows them to operate in a sustainable manner.

**State lotteries represent a system in which the state ensures that the proceeds are used for the benefit of society as a whole rather than being a source of private profit.**

Whether the financial contribution from lottery is directly channelled to the beneficiaries or is provided indirectly through the State budget, the amounts are so substantial that voluntary contributions or sponsoring would never be able to replace them. Moreover, in those countries where parts of the gambling market have been opened to competition, the taxation contributions by commercial operators are dwarfed by the contributions of those operators that operate under an exclusive rights system.



## 7. PRESERVING THE INTEGRITY OF SPORT

Legal sport betting, including new forms of it, as operated by EL's members, in accordance with the applicable regulatory policy, does not on its own create any problem and largely contributes to the promotion of safe and healthy sport by adequate means of funding.

However, mainly through illegal Internet business, sport betting has developed into a global gambling service and sometimes even a high-risk financial product, sometimes controlled by organised crime, undermining the fundamental values and objectives of sport, and society as a whole. The future of sport, due amongst others to the growth of a complex match fixing problem at global scale, is therefore uncertain. **The EL Sport Charter, adopted in May 2012, provides the responses our association proposes to these problems.**

**EL calls on the EU institutions and the Member States to take action against sport fraud by:**

- **Adopting a common definition of sports fraud as a criminal offense at EU-level**
- **Adopting a definition of sports fraud as a criminal offense in all the Member States of the EU**

A common definition of sports fraud agreed at European level between the Member States and the inclusion of provisions making sports fraud a specific criminal offense in the national domestic laws of all Member States would facilitate and enhance cross-border police and judicial cooperation involving all Member States' competent authorities for the prevention, detection and investigation of match-fixing in connection with sport betting. The European Institutions should make use of the legal base that the new article 83 of the TFEU provides for creating a criminal offense for sport fraud at EU-level.

- **Adopting incentive measures aiming at developing the European dimension of sport by promoting fairness and by protecting the physical and moral integrity of sportspersons**

Since the entrance into force of the Lisbon Treaty, sport is now explicitly mentioned as a policy area in the new Article 165 TFEU. Article 165 allows for incentive measures adopted in accordance with the ordinary procedure, but excluding harmonisation, or recommendations by the Council. EL urges the European institutions to take full advantage of the new Treaty provisions and issue concrete proposals.



- **Setting up an EU platform for exchange of information and management of the cross border aspects of sport integrity financed by contributions from the sport betting operators**

The financing should take into account the already existing direct and indirect contributions (other than commercial communications) which are already made by some operators – most notably EL members, who contribute more than 2 billion EUR per year to sport in the EU, in particular grassroots sport.

- **Supporting an International Convention for the preservation of sports integrity and the creation of an International Agency for Sports integrity**

The EU Institutions and the Member States should express their firm support to any initiative in multilateral fora (Council of Europe, UNESCO) towards an International Convention for the preservation of sports integrity or the creation of an International Agency for Sports integrity.





THE  
EUROPEAN  
LOTTERIES

FOR THE BENEFIT OF SOCIETY

54 MEMBERS  
IN THE EUROPEAN UNION

IN 27 EU  
MEMBER STATES

78 MEMBERS  
IN EUROPE

IN 44 COUNTRIES

54

27

78

44

## CONTACTS

### General Secretariat

The General Secretariat oversees the management of the organisation and all our events and seminars.

Secretary General **Bernadette Lobjois**  
European State Lotteries and Toto Association

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### EU Representation

Our EU Representation represents our interests in Brussels and is the first point of contact for policy makers, stakeholders and the media.

Acting General Delegate **Jutta Buysse**  
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## **ANNEX 2.10**

# NEWS

## DEAL

# REPORT

### **Hengeler Mueller successfully represents Afilius in dispute on top-level domain .lotto**

The International Centre for Expertise of the International Chamber of Commerce (ICC Expertise Centre) has decided that Afilius Ltd, an ICANN accredited registry operator for Internet domains, may register the new generic top-level domain (gTLD) .lotto.

The European State Lotteries and Toto Association (European Lotteries), to whom the German association of state lottery companies (Deutscher Lotto- and Totoblock) as well as the German Gemeinsame Klassenlotterie belong, had objected to the registration of these gTLD through Afilius in the context of the dispute resolution procedure as foreseen by ICANN for gTLD registrations.

With its decision, the ICC Expertise Centre rejected the arguments of European Lotteries that the availability of .lotto would lead to consumers being confused and exposed to unlicensed or even fraudulent providers of Internet gambling. The case has considerable impact on the economy of convergent gambling markets and addresses fundamental regulatory issues concerning global gambling services offered on the Internet. After the German Lotto- and Totoblock had already lost in German courts in 2006 in its attempt to prevent the cancellation of the trademark "Lotto" referring to the monopoly on lottery operations, it has now also been clarified for Internet domain law that gTLD .lotto is not reserved to state-owned lottery operators. European Lotteries fully lost the case.

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NEWS

DEAL

# REPORT

Afilias Ltd., an Irish Internet service provider headquartered in Dublin, is the registry operator of the gTLD .info and other top-level domains and provides DNS services.

Hengeler Mueller advised and represented Afilias. The Hengeler Mueller team was led by partner Dirk Uwer (Regulatory) and included associate Susanne Koch (both Düsseldorf).

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13 December 2013

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## **ANNEX 2.11**



# RESPONSIBLE GAMING STANDARDS

## EUROPEAN RESPONSIBLE GAMING STANDARDS

### 1. INTRODUCTION

European lotteries are committed to address illegal gambling and related criminal activities while at the same time minimising any potential harm on society and vulnerable groups<sup>1</sup> in particular by means of a controlled expansion of gaming Education and prevention is seen at the forefront of European lottery's commitment to responsible gaming.

These standards have been created by the EL Responsible Gaming Working Group and include feedback from EL members. The objectives of the standards are:

1. To foster the continuity of public order, integrity and the fight against illegal gambling and financial irregularities as defined under European legislation
2. To identify best practice in respect of Responsible Gaming in the lottery sector
3. To enable EL members to make Responsible Gaming an integral part of their daily operations and in doing so, to minimise harm to society.
4. To state clear rules for EL members relating to their operations so as to:
  - ensure that the interests of players and vulnerable groups are protected
  - ensure that relevant laws, regulations and responsibilities are met
  - develop appropriate practices taking account of relevant information and research
  - develop a better understanding of the social impact of gaming
  - promote the implementation of Responsible Gaming practices in all aspects of members' activities, and the activities of their agents
  - provide the public with accurate and balanced information to enable informed choices to be made about their gaming activities
  - to continuously improve, and public report on their Responsible Gaming programmes

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<sup>1</sup> The term 'vulnerable' groups can relate to different aspects of society, but in these standards means those that are below the age of legal play in any jurisdiction, those on low incomes, those that already have a gambling addiction, those who are sales agents, employees or contractors and/or those that are not aware of the risks associated with problem play.



5. To enable EL members to demonstrate to society that their Responsible Gaming programmes are of an appropriate standard and have been independently verified.

The treatment of people with gambling-related problems is the domain of therapists and other health care specialists.

Whilst EL members are committed, where treatment services exist (see (2) vii), to collaborate with and support to service providers, the primary aim of members is to establish Responsible Gaming programmes to minimize the risk for all parts of society, in particular for vulnerable groups. These will be based on the principles of prevention and education.

The Responsible Gaming Standards were for the first time adopted by the EL General Assembly in 2007. They are supplemented by the EL Certification Framework, which was adopted by the General Assembly in June 2009. All members shall ensure that they comply with applicable laws and local jurisdiction at all times. In order to accommodate a rapidly changing gaming environment and new knowledge and research in the area of responsible gaming these Responsible Gaming Standards shall be reviewed regularly.

The standards are the primary element of an EL policy framework for Responsible Gaming; the policy framework will include other documents that supplement the standards, for example specific codes of conduct (such as the Code for Sports Betting) and the EL Certification Framework, which relate to Responsible Gaming practices within the EL community. The standards are designed to be complimentary to the WLA Responsible Gaming Principles and Framework, in that the EL standards

specify outputs (i.e. it explains specific actions which EL Members shall take) that can be measured. It is expected that through the implementation of the EL Responsible Gaming Standards EL members will meet Level 4 of the WLA framework. However, the EL Standards are intended, where necessary, to go beyond mere compliance with the WLA framework, as required in Europe.

This document does not substitute any applicable laws and regulations within each Member's jurisdiction, but sets standards on Responsible Gaming which EL Member State Lotteries commit to follow accordingly.

## 2. STANDARDS

### I. RESEARCH

Members shall, working with appropriate stakeholders, promote (e.g. initiate / engage in / communicate the results of) research and/or studies, including from independent sources in order to contribute to society's understanding of problem gambling. These results shall also been used for the formulation of future responsible gaming measures and measures.

This may include the funding of research and/or studies as well as arranging or participating in seminars, conferences and the support of the EL's work on responsible gaming initiatives.

The responsibility for prevalence studies usually rests with the state. However, members shall co-operate with these studies where required.



## II. EMPLOYEE TRAINING

Members shall provide all employees with information on their Responsible Gaming programmes through appropriate communication channels at a minimum on an annual basis.

Members shall ensure that an appropriate level of awareness relating to Responsible Gaming is maintained throughout the organisation, so that Responsible Gaming is made an integral part of daily operations.

Relevant employees (including temporary staff and contract staff) shall, based on job demands and customer interaction, receive training on Responsible Gaming, including (where applicable) training on treatment referral for potential problem gamblers (see (2) vii). Preference should be given to specialist training providers for the provision of this training.

Where a legal age of play exists in any jurisdiction, all employees that sell lottery products shall receive training that enables them to request validation of a person's age through appropriate means (i.e. ID or secondary forms of identification).

## III. SALES AGENTS' PROGRAMMES

All sales agents shall be provided with information materials (e.g. brochures, leaflets, posters etc.) in order to raise their awareness of Responsible Gaming and to educate them on issues relating to problem play.

Before new sales agents are allowed to sell members products they shall be provided with training on Responsible Gaming. Tailored training may be

provided to retailers depending on the range of products they sell on behalf of members. Preference should be given to specialist training providers for the provision of this training.

Members shall ensure that sales agents are informed (in writing) that they are prohibited from offering credit facilities to players, excluding (in some jurisdictions) the acceptance of credit cards.

Members shall, where applicable, regularly assess the feasibility of providing training to sales agents in respect of treatment referral and the subject of problem gambling.

Where members offer self-exclusion facilities, such as a player card, sales agents shall be informed (in writing) how the schemes operate and can be activated/removed by or for players.

Members shall review the adequacy and effectiveness of sales agents Responsible Gaming programmes at least annually.

## IV. GAME DESIGN

Before launching every new type of product/service, members shall conduct a social impact assessment using a structured assessment process to examine relevant risk factors. Members shall implement effective strategies to minimize the negative impact of these risk factors. The risk factors shall be documented and any harm-minimization strategies clearly recorded so that the assessment can be reviewed as necessary.



Thus, members need to be aware of the risk factors related to problem gambling at product level (e.g. event–frequency, win probability, near–miss), at situational level (e.g. location and number of gaming venues) and at organizational level (e.g. marketing and advertisements).

Members shall only operate new types of products/services that are assessed (during the social impact assessment) to be ‘high–risk’ if doing so will enable an existing risk in the marketplace (i.e. if a product or service operated by someone other than the lottery member) to be reduced or regulated more effectively by the lottery member.

Members shall consider whether any social impact assessment, but particularly those that indicate a ‘high risk’ product/service, should be supported by verification from an independent third party, and document the decision/outcome as part of the social impact assessment. Self–exclusion options should be built in wherever operationally possible.

## V. REMOTE GAMING CHANNELS

Members shall, where applicable, assess the feasibility of arranging a periodic independent review of these platforms, in respect of their adequacy from a Responsible Gaming perspective, if this leads to a recognised accreditation from the independent third party (such as GamCare, G4 etc.). The outcome of any review should be documented and any action should be included in an action plan with specific owners and target dates. The outcome of such reviews shall be made available to the EL during the EL certification process (see xi.).

Where applicable and depending on the products offered, members shall ensure that their remote gaming platforms (internet, TV, mobile devices) include e.g.:

- Proof of address
- Age verification systems
- Customer–led and/or system default limits on play, spend and/or losses
- Self–exclusion options for players
- Reality check on the game screen (e.g. session clock, warnings relating to limits, cool offs/ breaks between periods of play)
- Data protection controls
- Value of wagers shall be displayed
- Self–assessment opportunities to help people to evaluate whether they are playing responsibly.
- Links on every webpage to information about responsible gambling, the member’s policies on responsible gaming, and sources of advice and support (e.g. helpline numbers, referral to treatment providers<sup>2</sup>). Members shall ensure that contact centre staff are able to refer to these sources of advice and support.

Where applicable, members shall also assess, at least annually, the extent that the above arrangements can be implemented in respect of ITVM and/or VLT products/services, for example through the use of player card or other registration schemes. Members shall document the content and results from the review, where applicable.

## VI. ADVERTISING AND MARKETING

Members shall not direct advertising at vulnerable groups (in respect of age, social status, or gambling habits).

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<sup>2</sup> See (2) vii



Members shall adopt an ‘advertising and marketing code which ensures that advertising and sales promotion activities do not encourage underage or problem play and do not provide the player with misleading information such as a false impression of the odds of winning. Members shall also comply with relevant voluntary and/or mandatory codes relating to the provision of their services. Members’ own code shall specify which mandatory and/or voluntary codes are applicable to their span of operations.

The code shall ensure that advertising and marketing campaigns:

- do not offer unreasonable incentives for loyalty that are linked to winning more based on gambling more
- only ever accurately portray winning as a matter of pure chance
- only ever accurately represent the chances of winning, prizes and odds etc.
- exclude any content that is designed to exploit an individual’s financial anxieties
- do not state or suggest that playing<sup>3</sup> is an alternative to work or a way out of financial difficulties
- do not encourage discrimination on the basis of ethnicity, nationality, religion, gender or age
- exclude any content that includes or encourages violence, sexually exploitative themes or illegal behaviour
- do not cooperate and support links or other commercials that are offering quick loans that can be drawn upon immediately for the purpose of playing

## VII. TREATMENT REFERRAL

Members shall actively engage with problem gambling organisations, treatment centres and/or health professionals in order to understand the problem gambler’s perspectives on the impact of lottery products and related advertising on their situation.

Where treatment services exist in a jurisdiction, members shall (unless an alternative organisation has been selected for this purpose in a jurisdiction) provide relevant information to players and sales agents and cooperate with providers regarding services available for problem gamblers. Such information (contact details/helpline numbers) shall be available in printed form and should be clearly visible in gaming venues, as well as being available on members’ websites.

The applicability, adequacy and effectiveness of these arrangements shall be reviewed at least annually by members.

## VIII. PLAYER EDUCATION

Members shall include these features in information designed for players (including on remote channels):

- detailed information on the odds of winning on each game which allows people to assess the risks and benefits of playing
- age restriction measures (if applicable)
- Responsible Gaming information and information on where to get help in cases of problem play (see (2) vii)

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<sup>3</sup> Members are free to use the winning experience as a positive aspect of advertising and marketing. The risk is that the act of playing may be presented as an alternative to work, rather than playing for fun with the hope of winning.



If the above information is not available in printed form in gaming venues (e.g. retail stores) members shall ensure that details of how to obtain such information is clearly available to players/retailers (agents). Where material is available in printed form it shall be placed where it can be taken discreetly. If ATMs are located in the location, leaflets shall be placed near to those.

## IX. STAKEHOLDER ENGAGEMENT

Members shall regularly engage with their stakeholders formally and informally and include this in their reporting mechanisms. Engagement shall cover issues that are material to the stakeholders and the individual member. In the breadth of stakeholders that are being invited members shall be inclusive.

The engagement shall provide an opportunity for stakeholders to voice relevant concerns or questions.

Members shall integrate the results of stakeholder engagement into their strategic–decision–making processes and shall feedback to relevant stakeholder(s) on the outcomes from engagement processes.

## X. REPORTING, MEASUREMENT & CERTIFICATION

Members shall report (or have agreed to begin reporting from a specified date) on the impact and breadth of their Responsible Gaming programmes

to their stakeholders. The reporting shall include policies for responsible gaming, targets, commitments and indicators and shall occur periodically.

Reporting shall be transparent using channels which are most appropriate and accessible for the targeted stakeholder audience.

Members shall arrange independent verification of their Responsible Gaming activities against these standards as specified in separate guidance relating to the EL certification process.

## XI. ELECTRONIC GAMING MACHINES (EGM'S)

EGM's shall include VLT's (Video Lottery Terminals), AWP (Amusement With Prizes), IVT's (Interactive Video Terminals), EIL (Electronic Instant Lottery). Members shall take into consideration that lottery games played via EGM's are potentially more likely to lead players to develop problem gambling than the usual lottery games.

As responsible operators, Members shall ensure that there are specific and strong Responsible Gaming measures in place for those games.

All measures taken by the members shall be discussed with and developed in conjunction with subject matter specialists (researchers, scientists or treatment specialists).



## **ANNEX 2.12**



# World Lottery Association **By-Laws**

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As Adopted at the General Meeting in Montreal, September 12, 2012

## Preamble

- Cognizant of the colorful heritage of lotteries and betting that spans more than five centuries.
- Proud and vigilant of the trust placed in us by the governments who authorize our activities within an exclusivity as to jurisdiction and games offered.
- Aware of our role of guardians of the integrity inherent in the games of chance and/or skill we provide for public amusement.
- Inspired by the demands for territorial integrity, public order and morality.
- Mindful of the need to provide mutual assistance, the free flow of experience and establishment of standards of conduct and competence in all facets of our industry.
- Prepared to speak as one voice before international tribunals when requested to do so.

We, the Chief Executive Officers of the world's lotteries join together as an industry association for the betterment of our organization, our governments and the people we serve.

## Article I Definitions

In these By-laws these words have the following meaning:

### 1.1 Convention

A gathering of the membership to further the aims and objectives of the Association to which the entire membership is invited.

### 1.2 Regional Association

The organization representing one of the following geographic regions:

- Africa
- Asia/Pacific
- Europe
- North America
- South America

and recognized as such at a General or Special Meeting of the Association.

### 1.3 General Meeting

The gathering of the Members for purposes of conducting the business of the Association which is held annually or, subject to Article 7.2.1, if so decided by the Executive Committee every second year.

### 1.4 Special Meeting

The gathering of the Members convened according to the terms of Article 8.2.

### 1.5 Executive Committee

The Executive Committee is the body duly elected or appointed and charged with the responsibility to manage and supervise the affairs of the Association.

### 1.6 Executive Director

A person appointed by and reporting to the Executive Committee to manage the day-to-day affairs of the Association.

### 1.7 Lottery Game (s)

The games referred to in Article 6.1.1

## Article II Name and Legal Status

### 2.1

The name of the Association is World Lottery Association (the “Association”).

Its legal status is an international, non-governmental, non-profit organization, of unlimited duration in the form of an Association with the status of a legal person, incorporated under Swiss Law, with a registered office in Basel, Switzerland, and an office in Montreal, Canada.

## Article III Office(s)

### 3.1

The responsibility and functions of the Offices shall be determined by the Executive Committee.

## Article IV Signing Authority

### 4.1

The Executive Committee shall have the power to appoint any member of the Executive Committee or the Executive Director to complete contracts, documents or other instruments on its behalf.

## Article V Aims and Objectives of the Association

### 5.1

The aims and objectives of the Association are to advance the collective interests of its Members and to enhance the capability, common knowledge and status of individual Members by:

- 5.1.1 providing forums for the exchange of experience and information;
- 5.1.2 the establishment of codes of conduct and certification of standards for lottery operations in order to establish norms to which Members may wish to aspire;
- 5.1.3 the establishment of programs to assist in technical and educational areas to be made available to member organizations who request such assistance;
- 5.1.4 the establishment of services in educational, statistical, informational or administrative matters;
- 5.1.5 the convening of Seminars, Conventions, Conferences, General Meetings, Special Meetings and working groups to further the aims of the Association;
- 5.1.6 if so requested to provide stimuli and organizational assistance in the establishment of work groups seeking to form multi-jurisdictional lotteries, national or international in scope; and
- 5.1.7 representing several or all Members in conveying positions or opinions to authorities, private or public, wherever such Members have authorized the Association to speak on their behalf.

The Association shall promote alignment and harmonization of its aims and objectives with those of Regional Associations.

In carrying out its aims and objectives, the Association shall strive for territorial integrity, public order and morality.

## Article VI Membership and Membership Qualifications

### 6.1 Member

Any organization is eligible for membership that:

- 6.1.1 conducts games of chance and/or skill such as Lotto, Toto, classic lotteries, sports betting, sports lotteries, instant games, and on and off-line lottery games, whatever the technical and/or commercial means used for operating them; and
- 6.1.2 is licensed or authorized by a jurisdiction domiciled in a State recognized by the United Nations and not identified as a country that has strategic deficiencies by the Financial Action Task Force on Money Laundering (FATF), who, in accordance with national prevailing law, may issue a license or authorization to operate Lottery Games where the annual sales volume of such games forms the greater part of the organization's total gross revenue and whose net revenues for the greater part is dedicated, by public decision, to good causes and/or the State exchequer and
- 6.1.3 whose business practices conform to the aims and objectives of the Association.
- 6.1.4 subscribes to the Code of Conduct as may be approved by the membership or to a similar Code of Conduct adopted by a Regional Association.

### 6.2 Associate Member

Any person or organization that is supplying or intending to supply goods or services to the lottery industry and whose application for Associate Membership is endorsed by at least two (2) Members, may be accepted by the Executive Committee as an Associate Member.

#### 6.2 A Collaborating Members

An organization owned by a jurisdiction, as referenced in article 6.1.2, and that is a shareholder of a WLA member is eligible for Collaborating Membership provided that it is endorsed by the WLA member in question.

Is also eligible for Collaborating Membership an organization which is licensed or authorized by a jurisdiction, as referenced in article 6.1.2, to offer the Lottery Games of a WLA member in that jurisdiction provided that it has the approval of the WLA member in question. For greater clarity, this provision does not apply to retailers or retailers associations.

Collaborating members do not have voting rights but can, where applicable, participate in WLA certification programs and activities.

The Collaborating Member must comply with the provision of articles 6.1.3 and 6.1.4.

The annual dues payable by Collaborating Member of the Association shall be paid in Swiss Francs and are equal to the lowest fee applicable to Associate Members.

The Executive Committee may suspend or expel any Collaborating Member who:

- 6.2 A(1) fails to pay the appropriate collaborating membership dues;
- 6.2 A(2) fails to retain the endorsement of the concern WLA member
- 6.2 A(3) fails to follow the Code of Conduct as may be required by the membership

### 6.3 Provisional Member

Upon receipt of an application for admission as a Member the Executive Committee may approve the applicant, upon such conditions and payments of dues as the Executive Committee may establish, as a Provisional Member until accepted as a Member at the next General Meeting or Special Meeting. Failing such acceptance, the applicant ceases to be a Provisional Member.

### 6.4 Honorary Member

The Executive Committee may, for election at a General or Special Meeting, nominate as an Honorary Member any individual who has made a significant personal contribution to the international lottery and toto industry, and who is not directly responsible for representing his lottery or toto organization within the Association. No Honorary Member shall be remunerated as such; however, reimbursement of transportation, hotel, and meal expenses may be offered.

“Honorary Member” may be invited to participate in the activities of the Association without voting privileges.

### 6.5 Suspension and Expulsion of Members

The Executive Committee may suspend or recommend for expulsion, for a final decision by the next General Meeting or Special Meeting, any Member who:

- 6.5.1 fails to pay the appropriate membership dues; or is not in good standing for a period exceeding 12 consecutive months;

- 6.5.2 fails to take effective action to prevent advertising, sales or distribution of its products, either directly or indirectly, in another jurisdiction, if that activity is in contravention of the laws of that jurisdiction;
- 6.5.3 otherwise conducts its business affairs in a manner that brings discredit to the industry;
- 6.5.4 is found to no longer qualify for membership,
- 6.5.5 fails to subscribe to a Code of Conduct as may be approved by the membership or to a similar Code of Conduct adopted by a Regional Association.

The Executive Committee may decide not to suspend or recommend for expulsion a Member whose government or supervisory authority does not permit it to subscribe to the Code of Conduct, if notwithstanding this, the Member in fact abides by and respects the terms of the Code of Conduct.

#### **6.6 Expulsion of Associate Members**

The Executive Committee may expel any Associate Member for non-payment of dues or failure to retain the endorsement of at least two Members or for supplying goods or services to lotteries that do not adhere to the WLA Code of Conduct as may be required by the membership.

#### **6.7 Resignation**

Any Member or Associate Member may resign from the Association upon a written notice of at least six months, but shall remain liable for all dues and obligations up to the date that the resignation becomes effective.

#### **6.8 Fiscal Year**

The fiscal year of the Association is January 1 to December 31.

#### **6.9 Members' Dues**

The annual dues payable by Members of the Association shall be payable in Swiss francs and shall be based on a sliding scale consisting of different levels of dues related to annual gross revenue of Lottery Games, the ratio of the lowest dues level to the highest dues level being 1 to 5.

#### **6.10 Associate Members' Dues**

The annual dues payable by Associate Members of the Association shall be payable in Swiss francs and shall be based on a sliding scale consisting of different levels of dues related to annual gross revenues derived from sales to the lottery industry.

#### **6.11 Payment of Dues**

The dues payables by members and Associate Members of the Association must be paid by May 31 of each current year.

## **Article VII Executive Committee**

### **7.1 The Executive Committee**

#### *7.1.1 Structure*

The Executive Committee shall consist of 13 persons each from a different country. The General Meeting shall elect eight (8) persons to the Executive Committee composed of a President and seven (7) other persons. After the election at a General Meeting each Regional Association shall nominate a delegate to the Executive Committee at a time convenient to the Regional Association. The Regional Delegates are subject to ratification by the Executive Committee members elected at the General Meeting.

No Region shall have a majority of the members on the Executive Committee. In the event that the General Meeting votes on a slate of Executive Committee members and more than 6 of the 13 with the highest number of votes are from the same Region only the person selected to represent that Region's Regional Association and those 5 others from that Region, or 4 if the President is also from the same Region, with the highest number of votes are officially elected.

Notwithstanding the above, the immediate past elected president participates at all the Executive Committee meetings, as long as he/she meets the eligibility criteria established in article 7.1.2. In such a case the limitations of one person per country and no Region having a majority, provided for in the preceding paragraphs, do not apply to the immediate past elected President, who does not, however, have a right to vote at Executive Committee meetings.

### *7.1.2 Eligibility to serve*

Only persons who are active in day-to-day management such as the Chief Executive Officer, the Chief Operating Officer, the Managing Director or the Lead Management Decision Maker of a Member of the Association shall be eligible to serve on the Executive Committee. In the event that a person becomes ineligible such person immediately ceases to be a member of the Executive Committee.

### *7.1.3 Representative Regional Association*

Subject to 7.1.2, any person appointed to the Executive Committee to represent a Regional Association must be selected solely by Members of the World Lottery Association in that Regional Association. A person appointed to the Executive Committee to represent a Regional Association may not serve as President or Vice President of the Association.

### *7.1.4 Vice Presidents*

The Executive Committee shall, subject to the limitations in 7.1.3, elect two (2) Vice Presidents from among the Executive Committee members who have been elected at the General Meeting; one of whom shall be designated as the Senior Vice President.

### *7.1.5 Nominations*

The Executive Director shall notify the membership at least 30 days in advance of a General Meeting at which an election is scheduled, of the names of the persons nominated for election to the Executive Committee.

## **7.2 Term of Office**

### *7.2.1 Terms*

The election of Executive Committee, provided for by Article 7.1.1, must be held every second calendar year. The terms of office for all persons who are elected at a General Meeting to the Executive Committee shall commence at the close of the Convention at which elections are held for Executive Committee members and terminate at the end of the Convention held in the second calendar year after the election. There shall be no limit on the number of terms a person on the Executive Committee may serve with the exception of the office of President which is limited to two elected terms. The period of office of the delegates of the Regional Associations ends on the date on which the respective Regional Association appoints a new representative after the election for Executive Committee members at a General Meeting.

### *7.2.2 Vacancy / President / Vice President*

In the event that the office of the President shall become vacant, the Senior Vice President will assume the duties and title of the President for the remainder of the term. The second Vice President shall assume the office of the Senior Vice President in the event that that office becomes vacant either due to the Senior Vice-President assuming the presidency or for any other cause. The Executive Committee shall subject to 7.1.4, appoint a person selected from among the Members of the Association to fill the vacancy on the Executive Committee and appoint a second Vice President.

### *7.2.3 Vacancy / Regional Association Member*

Subject to 7.1.3, in the event of a vacancy on the Executive Committee as a result of the resignation or other termination of the appointment of a person representing a Regional Association, such Regional Association shall appoint a person to fill such vacancy for the remainder of the term, subject to approval of the Executive Committee.

### *7.2.4 Vacancy / Executive Committee*

Except as provided in 7.2.2 and 7.2.3, in the event of any other vacancy on the Executive Committee, for the remainder of the term the vacancy shall be filled by the Executive Committee by a person selected from among the Members of the Association.

In this selection process the Executive Committee shall strive to maintain regional balance and continuity.

## **7.3 Quorum**

A quorum of the Executive Committee shall be a majority of the sitting Executive Committee members subject to no one Region being able to form a quorum. All decisions of the Executive Committee shall require a majority vote of all the votes cast at such a meeting.

## **7.4 Authority / Function / Powers of the Executive Committee**

### *7.4.1 Nominating Committee*

The establishment of a Nominating Committee to select candidates for the position of President and seven (7) Members of the Executive Committee.

### *7.4.2 Convening*

The convening of Conventions, Special Meetings and General Meetings.

**7.4.3 Admission / Suspension / Expulsion**

The provisional admission, suspension and recommendations for expulsion of Members of the Association.

The admission, suspension and expulsion of Associate Members and Collaborating Members to the Association.

**7.4.4 Budgets**

The approval of budgets and financial statements submitted by the Executive Director.

**7.4.5 Administration**

The supervision of the administration of the Association between General Meetings.

**7.4.6 Agendas**

The approval of the dates, location, agenda and programs of General Meetings.

**7.4.7 Staffing**

The appointment, terms, conditions and security of employment of the Executive Director, as well as the classification and working conditions of WLA staff.

**7.4.8 Amendments**

The consideration and approval of amendments to the by-laws to be presented at a General Meeting.

**7.4.9 Special Committees**

The establishment of special committees to undertake tasks for specific purposes.

**7.4.10 Meeting Sites**

The selection of the date and location of the next General Meeting.

**Article VIII  
Meeting of Members**

**8.1 General Meetings**

The General Meeting shall exercise the following functions and powers:

- 8.1.1 Modification of these By-laws.
- 8.1.2 Admission, suspension and expulsion of members of the Association.
- 8.1.3 Election and ratification of the members of the Executive Committee.
- 8.1.4 Appointment of auditors.

- 8.1.5 Ratification of the audited accounts of the previous financial period and approval of the budget for each fiscal year that will have commenced before the next scheduled General Meeting.
- 8.1.6 Establish the different dues categories and the corresponding dues payable from time to time by Members and Associate Members.
- 8.1.7 Consider reports and recommendations by the Executive Committee.
- 8.1.8 Consider and decide such other issues as may properly be brought before the meeting.
- 8.1.9 The establishment of a Code of Conduct for the Members and Associate Members of the Association.
- 8.1.10 To make all decisions for the Association not otherwise delegated or specified in these by-laws.

**8.2 Special Meetings**

Special Meetings may be convened by the Executive Committee if such is deemed in the best interests of the Association. The Executive Committee must convene a Special Meeting if petitioned to do so by a minimum of 20% of the Members in good standing.

Special Meetings shall consider and decide on any matter that may be considered at a General Meeting and that is properly brought before such meeting.

**8.3 Quorum / Voting**

8.3.1 A quorum is the Members who are present at a General Meeting or a Special Meeting. The following decisions shall require the affirmative vote of no less than sixty-seven percent (67%) of the votes cast at such meeting:

- (a) **1.2** the recognition of the organizations representing the geographic regions;
- (b) **3.1** the change of the Association's offices;
- (c) **6.4** the election of Honorary Members;
- (d) **17.1** the dissolution of the Association;

The following decision shall require the affirmative vote of no less than seventy-five percent (75%) of all votes cast at a General Meeting or a Special Meeting:

- (e) **8.1.2** the admission, suspension and



expulsion of Members of the Association;

- (f) **15.1** the modification of these By-laws.

All other decisions shall require a majority of all the votes cast at such meeting.

- 8.3.2 Prior to a vote being taken on a Member's expulsion for failure to subscribe to a Code of Conduct as may be approved by the membership or to a similar Code of Conduct adopted by a Regional Association, the Member must be offered the opportunity of presenting its position with regards to the alleged failure at the General Meeting where the vote is being taken.

#### **8.4 Voting Rights**

Members in good standing that is members who have no payments owing to the Association for dues or invoiced services rendered by the WLA, and who are represented by a duly accredited delegate of such Member who is personally present shall be entitled to vote. The aforesaid accredited delegate may also cast the proxy vote for one other Member in good standing who is not present at the General Meeting, but never for more than one such absent Member, provided that he has received prior written authorization to execute the proxy from the person identified in 7.1.2 of that absent Member.

#### **8.5 Notice**

For a General Meeting, items to be considered for inclusion in the agenda must be submitted to the Executive Director at least 60 days in advance of the General Meeting. The agenda should be transmitted to the Members at least 30 days in advance of a General Meeting. Once the agenda is circulated to the Members it can only be changed if a majority of the Members attending the General Meeting give their consent.

### **Article IX Audit**

#### **9.1**

The books and accounts of the Association shall be audited every year as soon as possible, but no later than six months after the end of the fiscal year, by an independent external certified auditor designated for this purpose by the General Meeting.

### **Article X Languages**

#### **10.1**

The official languages at any Convention, General Meeting or Special Meeting shall be French, German, Spanish and English. In the event of any dispute these By-laws, minutes and other records of the Association expressed in the English language shall be the determining text.

### **Article XI Functions of the President**

#### **11.1**

The President is the principal representative of the WLA on policy matters as they are approved by the Executive Committee or General Meeting, as the case may be. The President is the chairperson of the Executive Committee and presides at all meetings of the Association.

### **Article XII Functions of the Vice Presidents**

#### **12.1**

In the absence of the President, the duties shall be discharged by the Senior Vice President and in his absence by the Second Vice President.

### **Article XIII Functions of the Executive Director**

#### **13.1**

The Executive Director shall report to the Executive Committee via the president and be responsible for the operations of the Association and the performance of all functions and duties assigned by these By-laws by the Members at a General Meeting or Special Meeting, by the Executive Committee, or by the President.



The Executive Director shall attend all meetings of the Executive Committee.

## **Article XIV Remuneration and Expenses**

### **14.1**

The Executive Committee and immediate past elected President shall not be remunerated as such. Only those travel related expenses under the “WLA Reimbursement Policy” as approved by the Executive Committee shall be reimbursed.

## **Article XV Amendment of By-Laws**

### **15.1**

The Association’s By-laws may be amended at a General Meeting or Special Meeting of the Association.

## **Article XVI Indemnity of the Members of the Executive Committee**

### **16.1**

The members of the Executive Committee are not personally liable of the debts and obligations of the Association and shall be indemnified for any costs incurred in proceedings taken against them in the execution of their duties, exercised in good faith.

### **16.2**

Members and Associate Members of the Association shall not be held personally nor jointly responsible for the liabilities of the Association.

## **Article XVII Dissolution of the Association**

### **17.1**

The Association may be dissolved at any time at any General Meeting of the membership.

In the event of dissolution of the Association and upon payment of all its debts and liabilities, the remainder of the assets of the Association shall be paid to other non-profit associations having objectives similar to those of the Association.

## **ANNEX 2.13**



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<input type="text" value="Username"/>	<input type="password" value="....."/>	<input type="button" value="LOGIN"/>
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- **Burkina Faso**

[Loterie Nationale Burkinabé \(LONAB\)](#)

- **Congo (Republic)**

[Congolaise de Gestion de Loterie S.A. COGELO](#)

- **Ethiopia**

[National Lottery Administration](#)

- **Ghana**

[National Lottery Authority](#)

- **Ivory Coast**

[Loterie Nationale de Côte d'Ivoire \(LONACI\)](#)

- **Mauritius**

[Lottotech Ltd](#)

- **Morocco**

[Loterie Nationale \(Morocco\)](#)

[La Marocaine des Jeux et des Sports](#)

- **Niger**

## [Loterie Nationale du Niger](#)

- **Senegal**

## [Loterie Nationale Sénégalaise \(LO.NA.SE\)](#)

- **South Africa**

## [Gidani \(Pty\) Limited](#)

- **Togo**

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## [Lotterywest](#)

## [Tatts Lotteries](#)

- **China**

## [China Sports Lottery](#)

## [China Welfare Lottery Issuing & Management Centre](#)

- **French Polynesia**

## [Pacifique des Jeux](#)

- **Hong Kong**

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[Japan Lottery Association](#)

[Japan Lottery System, Inc.](#)

[Japan Sport Council](#)

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[Pan Malaysian Pools Sdn Bhd](#)

[Sports Toto Malaysia Sdn Bhd](#)

[Magnum Corporation Sdn Bhd](#)

- **New Zealand**

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[KSPO - Korea Sports Promotion Foundation](#)

[Sports Toto Co., Ltd.](#)

[Korea Union Lottery Co., Ltd.](#)

[NanumLotto Inc.](#)

- **Singapore**



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[National Lotteries Board Sri Lanka](#)

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## **Europe & Near East**

- **Austria**

[Österreichische Lotterien GmbH](#)

- **Belarus**

[Closed Joint Stock Company 'Sport-Pari'](#)

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