

14 September 2018

Leslie Reynolds
Executive Director
National Association of Secretaries of State (NASS)
444 N. Capitol Street NW, Suite 401
Washington, DC 20001

RE: NASS Resolution

Dear Ms. Reynolds,

Thank you for your correspondence of 30 July 2018 regarding the National Association of Secretaries of State (NASS) Resolution on consumer safeguards for corporate identifier top level domains (TLDs). Your letter is posted on the correspondence page at: <https://www.icann.org/en/system/files/correspondence/reynolds-to-hedlund-30jul18-en.pdf>. I appreciate your engagement on this topic and would like to provide you with some information regarding the corporate identifier TLDs such as .INC, .LLC, and .LLP, including what consumer safeguards are in place for these TLDs.

The NASS resolution states:

“WHEREAS, the Government Advisory Committee to ICANN issued advice in regards to the necessity of safeguards and restrictions on these particular Internet extensions. NASS members believed that safeguards and restrictions were best enforced through the community application process;”

I would like to clarify that all applications are evaluated via the same process, as described in the New gTLD Applicant Guidebook (AGB).¹ Applicants were able to self-designate their applications as community applications, and—if they were in contention with other applicants for the same TLD—had the option to (but were not required to) participate in Community Priority Evaluation (CPE).² CPE is a contention resolution mechanism that is used at an applicants’ option only to determine if a community-based application qualifies to earn priority and eliminate non-community applicants in the contention set as well as any other non-prevailing community applicants. It had no bearing on safeguards or enforcement of safeguards related to various TLDs.

As you note, safeguards for TLDs were established through advice issued by the GAC. The GAC specifically called out concerns regarding corporate identifiers (among many other categories of TLDs) in its Beijing Communiqué³. These safeguards apply to all potential registry operators for the identified TLDs regardless of whether an applicant self-designates as a

¹ See <https://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

² *Ibid.* See AGB Module 4: String Contention Procedures:

³ See

https://gacweb.icann.org/download/attachments/27131917/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1385487299000&api=v2

community-based applicant or even participates and prevails in CPE. This is because in February 2014, the New gTLD Program Committee of the ICANN Board adopted a framework for implementing the GAC safeguards across all identified TLDs.⁴ The safeguards have been implemented as contractual obligations of the registry operator and appear as Public Interest Commitments (PICs) in Specification 11 of the Registry Agreement. The safeguards are enforced by ICANN's Contractual Compliance team as well as through the Public Interest Commitments Dispute Resolution Procedure (PICDRP).⁵ For your reference, the Specification 11 safeguards have been attached as an annex to this letter.

In regards to the TLDs .INC, .LLC, and .LLP, ICANN has signed a Registry Agreement with the prevailing applicants for .INC⁶ and .LLC⁷, and is in the process of signing an agreement with the prevailing applicant for .LLP. The Registry Agreements for .INC and .LLC contain the requisite safeguards in Specification 11 and the same will also apply to the Registry Agreement for .LLP.

I hope this information has been helpful to you. Rest assured, ICANN will rigorously adhere to these safeguards and is committed to their enforcement. ICANN appreciates and looks forward to your continued participation in ICANN's multistakeholder process.

Sincerely,



Göran Marby
President and Chief Executive Officer
Internet Corporation for Assigned Names and Numbers (ICANN)

⁴ See <https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-2-05feb14-en.pdf>

⁵ See <https://www.icann.org/resources/pages/picdrp-2014-01-09-en>

⁶ See <https://www.icann.org/resources/agreement/inc-2018-03-10-en>. Note: as of 26 May 2018, the Registry Agreement for .INC was assigned to InterCap Holdings, which now operates the TLD.

⁷ See <https://www.icann.org/resources/agreement/lc-2017-12-14-en>

Annex 1 – GAC Category 1 Safeguards as Public Interest Commitments in Specification 11 of the New gTLD Registry Agreement

1. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Registry operators will include a provision in their Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.
4. Registry operators will proactively create a clear pathway for the creation of a working relationship with the relevant regulatory or industry self-regulatory bodies by publicizing a point of contact and inviting such bodies to establish a channel of communication, including for the purpose of facilitating the development of a strategy to mitigate the risks of fraudulent and other illegal activities.
5. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring Registrants to provide administrative contact information, which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.
6. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring a representation that the Registrant possesses any necessary authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string.
7. If a Registry Operator receives a complaint expressing doubt with regard to the authenticity of licenses or credentials, Registry Operators should consult with relevant national supervisory authorities, or their equivalents regarding the authenticity.
8. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring Registrants to report any material changes to the validity of the Registrants' authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string in order to ensure they continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.