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SUBJECT Applications for a new generic Top-Level Domain “.gmbh”

Dear Mr. Chehadé,

Please permit me to write to you with regard to a specific matter.

A number of companies have applied for a new generic top-level domain “.gmbh”. The applicants are based in a number of different countries. I would like to draw your attention to the fact that the term “GmbH” (Gesellschaft mit beschränkter Haftung) is that of a corporate legal structure in Germany, Austria and Switzerland.

In Germany, only companies registered as a “Gesellschaft mit beschränkter Haftung” have the right to use the respective abbreviation “GmbH” accordingly. Therefore, there is a legal aspect to be considered in allowing the use of the term “GmbH” as part of a second-level domain. It must be added that companies with the corporate form of a GmbH enjoy special trust amongst customers and business partners on the German market. For this reason, the German government believes that, in order to protect legitimate expectations, a future applicant for “.gmbh” should ensure that second-level domains below a top-level domain “.gmbh” should be granted solely to companies with this corporate legal structure.

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Page 2/2 The governments of Germany, Austria and Switzerland set out these requirements in their early warnings of November 2012 to all parties applying for “.gmbh” and demanded that

- Applicants for SLDs under “.gmbh” have to be companies which are already organized as “Gesellschaft mit beschränkter Haftung” according to the regulations valid in Germany, Austria, Switzerland or Liechtenstein, or they should be able to prove that such a registration is pending in at least one of these countries. Compliance with these requirements has to be regularly reviewed.
- Applicants for SLDs have to prove that they are subject to liability as a GmbH by forwarding a full set of valid documents from their respective place of jurisdiction.

In the GAC Advice from Beijing on April 11, 2013, “.gmbh” is cited as a sensitive string for which a future registry operator has to meet special safeguards.

In the view of the German government, ICANN should aim to ensure that the above-mentioned criteria are made mandatory for the new operator of a “.gmbh” registry in order to permanently exclude a misuse of second-level domain names. Permit me to point out that, in the view of the governments of Germany, Austria and Switzerland, the two applications by InterNetWire Web-Development GmbH and by TLDDOT GmbH meet these requirements, as far as can be seen from the application documents. I would request you to take account of the principles set out above in the granting of a “.gmbh” top-level domain.

This letter has been co-ordinated with the governments of Austria and Switzerland. The GAC representatives of Germany, Austria and Switzerland will gladly answer any questions you might have.

Yours sincerely,

B. Voigt *Middelburg*