NTAG
The New gTLD Applicant Group

Cherine Chalaby, Chair, Board New gTLD Program Committee (NGPC)
The Internet Corporation for Assigned Names and Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536
USA

Friday January 31, 2014

Dear Mr. Chalaby:

Issue: Implementation of GAC Safeguard Advice on Category 1 Strings

Further to our correspondence to the New gTLD Program Committee (NGPC) of December 20, 2013, the New TLD Applicant Group (NTAG) <u>unanimously urges the NGPC to resolve the Governmental Advisory Committee (GAC) Safeguard Advice on Category 1 strings (GAC Category 1 Advice) at its meeting on February 5, 2014</u>.

The NTAG wishes to underscore the heavy burden that the delay in the implementation of GAC Category 1 Advice has imposed upon affected applicants. Moreover, we wish to emphasize that applicants have repeatedly been asked by ICANN to provide information regarding the GAC Advice on short timeframes.[1] Applicants have complied with such requests with the expectation that this would expedite the resolution of outstanding GAC Advice. The NGPC should commit itself to the same timeliness in its resolution of the GAC Category 1 Advice.

Furthermore, the lack of transparency into what, if any, implementation issues remain outstanding, as well as into ICANN's intended timeline for allowing affected applicants to move forward, have yielded significant uncertainty and frustration within the applicant community.

Specifically, the NTAG is concerned that no resolutions were taken regarding GAC Category 1 Advice during the ICANN 48 Public Meeting in Buenos Aires ("ICANN 48"), nor during the January 9, 2014 meeting of the NGPC. Further, the Preliminary Report from the January 9 meeting did not provide applicants with transparency into the current status of discussions surrounding the GAC Category 1 Advice. We are also highly

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[1] Following the publication of the GAC Beijing Communiqué applicants were given only 21-days to respond to their inclusion in the Category 1 and Category 2 safeguard lists; nonetheless, 728 responses were received in this period. Similarly, when applicants when given only 7 days to respond to their inclusion in the GAC Category 2 Safeguard list 183 of 186 applicants contacted responded with their intended plans for operation.

concerned that the outstanding GAC Advice was not put on the Agenda for the NGPC's subsequent meeting, held on January 30, 2014.

The inaction on GAC Category 1 Advice contradicts commitments made to applicants during ICANN 48, wherein members of the ICANN Board stated that NGPC's plan was to address outstanding items of the GAC Advice in a manner that allowed the largest possible number of applicants to proceed.[2] Further, members of the ICANN Board indicated that, barring consensus Advice from the GAC, the NGPC would proceed with the implementation plans outlined in its October 29 correspondence. In spite of the fact that the GAC Category 1 Advice affects the largest number of applicants and GAC's acceptance of the implementation plans prescribed, the resolution of the GAC Category 1 Advice has continually been delayed in favor of addressing issues pertaining to small subsets of applications.

Given that the resolution of GAC Category 1 Advice lies in the critical path for many applications, and the frustration and uncertainty of applicants regarding the lack of progress to date, it is imperative that the NGPC undertake all possible efforts to resolve the GAC Category 1 Advice expeditiously.

As expressed in our December 20, 2013 correspondence to the NGPC, the NTAG supports the implementation of the GAC Category 1 Advice through additional mandatory Public Interest Commitments (PICs), as outlined in the October 29, 2013 letter from Dr. Stephen Crocker, Chair, ICANN Board of Directors, to Ms. Heather Dryden, Chair, Governmental Advisory Committee, and believes that the GAC's Buenos Aires Communiqué provided the NGPC with an effective "green light" forward for the resolution and implementation of the GAC Category 1 Advice through these means. This sentiment was also evidenced in the Applicant Responses to the GAC's Buenos Aires Communiqué, which witnessed overwhelming support from applicants for moving forward with the implementation of the GAC Category 1 Advice as outlined.[3]

Accordingly, we reiterate the requests put forward in our December 20, 2013, correspondence to the NGPC:

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[2] This commitment can also be found in the NGPC Announcements dated June 14, 2013 and October 1, 2013.
[3] In its GAC Advice Announcement, ICANN notified applicants of the implementation plans for GAC Category 1 and Category 2 strings outlined in the October 29 letter from Dr. Stephen Crocker, Chair, ICANN Board of Directors, to Ms. Heather Dryden, Chair, Governmental Advisory Committee. Of the Applicant Responses to the GAC Advice announcement, published here, a majority welcome the implementation plans outlined in the October 29 correspondence, and express a willingness to comply with the relevant safeguards.

> *"We ask that ICANN communicate the modified Category 1 Safeguards and corresponding PIC requirements to affected applicants. This would have the effect of lifting the NGPC's earlier freeze on Category 1 applications. Additionally, we ask that ICANN proceed with issuing Contracting Information Requests to otherwise eligible applicants for Category 1 strings so that affected applicants may move forward within the application process."*

Additionally, if there are any outstanding implementation issues pertaining to individual Category 1 strings, we request that ICANN communicate directly with affected applicants and provide them with a clear timeline and framework for when and how these issues will be addressed by the NGPC.

We ask that, in line with the statements made during ICANN 48, such issues be handled by the NGPC on a case-by-case basis so that they do not stand in the way of other Category 1 applications that would otherwise be permitted to move forward with other application phases (e.g., Community Priority Evaluation, auctions, contracting, etc.).

We thank the NGPC for considering these requests and respectfully ask that the GAC Category 1 Advice be resolved at its meeting on February 5, 2014.

Sincerely,

The New TLD Applicant Group

CC: Fadi Chehadé, President and CEO, ICANN

Process Note

This letter was drafted by a working group of NTAG members at their initiative. It was circulated to all NTAG members and revised several times during a four-day comment and review period. It was finalized at 2000 UTC on January 30, 2014. As there were no abstentions or comments against, the letter represents the consensus view of the membership.

About the NTAG

The New TLD Applicant Group (NTAG) is an interest group formed under Article III.D. of the Charter of the gTLD Registries Stakeholder Group (RySG), which is a recognized entity within the Generic Names Supporting Organization (GNSO) of the Internet Corporation for Assigned Names and Numbers (ICANN).

The NTAG represents 102 new gTLD applicants as of January 2014. Together, NTAG members submitted over half of all new gTLD applications received by ICANN (994 total, representing US$ 184M in application fees).

The primary role of the NTAG is to represent the interests of entities that applied for a new gTLD(s) in ICANN's 2012 gTLD round. The NTAG represents the views of its members to the RySG, the GNSO Council, the ICANN Board of Directors, and other influential bodies.

The guiding principles for the NTAG are fairness, openness, and transparency in all NTAG policies, practices, and operations. The service standards for leadership positions include impartiality, accountability, and conflicts of interest declarations. The behavioral expectations of all NTAG members include adhering to ICANN Bylaws and Policies and the RySG Charter; supporting the consensus model; treating others with dignity, respect, courtesy, and civility; listening attentively to understand others; acting with honesty, sincerity, and integrity; and maintaining community good standing.