

21 August 2023

RE: Issue with Registrar Accreditation Process

OV International, Varun Kafley

Via electronic mail

Dear Varun Kafley,

In February 2021, OV International (OV) submitted a [complaint](#) regarding two registrar accreditation applications it submitted in December 2019 and December 2020. OV's complaint reflects its dissatisfaction with ICANN determination regarding its applications. OV is seeking a refund of its December 2019 application fee and for ICANN to reevaluate its application gratis. This letter is in response to your complaint.

After researching and analyzing your Complaint, I found that ICANN followed its processes, made its determinations based on information provided by OV, supplied rationale for its determinations, and collected the agreed, non-refundable fee.

I apologize that, due to unforeseen circumstances, it has taken a long time to draft and respond to your complaint. Despite the delay of this written response, your complaint was evaluated and considered according to ICANN's published [complaints process](#) shortly after your complaint was submitted.

### **Background**

To start, it is not the role or directive of the Complaints Office to usurp determinations made by ICANN functions or staff. Instead, the role of the Complaints Office is to receive, research, analyze, and resolve issues as openly as possible, and to help ICANN build on its operational effectiveness openly and transparently. The [complaints process](#) includes conferring with ICANN staff colleagues with expertise in the area(s) that are or may be relative to the subject matter of your complaint. Complaints Office findings and recommendations are based on the results of that research and analysis, coupled with my own expertise.

In December 2019, OV submitted a registrar accreditation application. ICANN reviewed OV's application, including several rounds of "clarifying questions." Clarifying questions provide an opportunity to clear up ambiguities, address ICANN concerns, and ensure ICANN has a clear understanding of the proposed registrar. In July 2020, ICANN notified OV that it did not meet the registrar accreditation requirements and provided the reasons why. ICANN also informed OV it could address any application deficiencies and resubmit. If OV resubmitted its application within one year of its original submission, there would be no additional application fee. OV took the opportunity and resubmitted its application in December 2020. In January 2021, ICANN determined and notified OV that it did not meet the requirements for registrar accreditation, which OV disagreed with again.

In February 2021 OV's complaint was forwarded to the ICANN Complaints Office. OV's complaint asserts that ICANN rejected both accreditation applications and did not provide supporting evidence. For these reasons, OV is requesting that ICANN refund its \$3,500 application fee, and evaluate its application a third time, gratis.

## Findings

I found ICANN followed its processes. ICANN provided OV with direction on how to improve its applications. ICANN made its determinations based on information supplied by OV and provided OV with its determination and rationale. ICANN invoiced and collected the \$3,500 application evaluation fee for OV's December 2019 application and did not invoice for OV's December 2020 resubmission. For these reasons, I do not see anything that indicates a refund of OV's application fee is warranted or that ICANN should reevaluate OV's application gratis. Data points supporting my findings are:

- ICANN's [How to Become a Registrar](#) web pages include a well-defined process for accreditation and provide several options for help and understanding.
- ICANN's Terms and Conditions, found in the [Registrar Accreditation Application Form](#) that OV completed and agreed to, include the following language:
  - Terms and Conditions Introductory Paragraph: *"By submitting this registrar accreditation application to ICANN, the applicant understands and agrees that the following terms and conditions (Application Terms) apply to its application."*
  - Terms and Conditions, Section 4, Application Process: *"The applicant acknowledges that ICANN reserves the right, at any time and for any reason, to decline or not to proceed with an application."*
  - Terms and Conditions, Section 4, Application Process: *"ICANN does not guarantee or make any assurance that an application will be approved or will result in the official ICANN accreditation of the applicant as a registrar."*
  - Terms and Conditions, Section 5, Application Fees: *"The applicant agrees to pay the non-refundable application fee. Please do not attempt to transmit payment with this application."*
- In addition to what is stated in the Application Terms & Conditions, ICANN's published materials for registrar accreditation state the non-refundable nature of the fee:
  - ICANN Registrar Accreditation Application Information webpage <https://www.icann.org/resources/pages/raa-application-2021-04-12-en>
  - Instructions for Completing the Registrar Accreditation Application <https://www.icann.org/resources/pages/raa-application-instructions-2021-04-12-en>
- ICANN provided documentation and rationale supporting both of its determinations regarding OV's applications. ICANN's non-approval determinations stated, OV did not *"...satisfactorily answer the questions in Section IV. "Operational and Technical Capabilities" and Section V. "Contractual and Policy Requirements"*.

## ICANN Proactive Improvements

While I did not find any issues with ICANN's handling of your applications, in August 2021 ICANN proactively began making updates to its process and published materials as described below.

ICANN made updates to its process to:

- further standardize how it documents its registrar accreditation application findings;
- include additional context in its standard non-approval determination letter for applicants that do not meet the accreditation requirements;
- include additional content to assist applicants in improving their application.

ICANN added text stating the non-refundable fee applies regardless of whether the application is approved. The previous text stated "...the non-refundable application fee", and the updated text states, "Please note the application fee is non-refundable regardless of whether the application is approved, denied, or withdrawn." The additional text was added to the following web pages:

- ICANN Registrar Accreditation Application Information webpage, see: <https://www.icann.org/resources/pages/raa-application-2021-04-12-en>
- Instructions for Completing the Registrar Accreditation Application, see: <https://www.icann.org/resources/pages/raa-application-instructions-2021-04-12-en>

ICANN added a question to the Registrar Billing FAQ about the fee being non-refundable <https://www.icann.org/resources/pages/payments-2012-02-25-en>

## Conclusion

ICANN takes its role seriously and has structured its activities, priorities, and behaviors to support its important mission. Errors and misunderstandings happen from time to time and when they do, ICANN evaluates the circumstances and makes improvements and/or adjustments where needed. In evaluating your complaint, I did not identify anything warranting a refund of your application fee, or a reevaluation of your application, gratis. However, the ICANN team proactively identified and made updates to its process and published materials to further clarify that the application fee is non-refundable regardless of whether the application is approved, denied, or withdrawn.

ICANN appreciates you bringing your concerns to our attention. When stakeholders, like yourself, bring forward concerns in a constructive way, it helps ICANN identify and act on improvement opportunities, regardless of the outcome of the complaint. Thank you for the opportunity to work with you.

Kind regards,  
Krista Papac  
ICANN Complaints Officer