



18 June 2015

Mr. Cherine Chelaby
Chair, New gTLD Program Committee
Internet Corporation for Assigned Names and Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Dear Mr. Chelaby,

**.CRUISE Application of Viking River Cruises (Bermuda) Ltd; Application ID: 1-1691-43949;
Proposed amendment to Q18**

Cruise Lines International Association (CLIA) is one of the applicants for the new gTLD .CRUISE. We write in relation to the change request submitted by the second applicant for the .CRUISE TLD, Viking River Cruises (Bermuda) Ltd (Viking), belatedly seeking to address the GAC's Category 2 Safeguards Advice. CLIA:

- objects to the nature of the proposed amendment; and
- considers that, after such a fundamental change to the nature of the application, affected parties ought to be afforded an opportunity to file a formal objection as if those changes were part of the original application in 2012.

Background to the Governmental Advisory Committee (GAC) Category 2 Advice affecting .CRUISE

The .CRUISE TLD was applied for by CLIA and Viking. In November 2012, the Australian Government issued an Early Warning against both CLIA and Viking for "seeking exclusive access to a common generic string that relates to a broad market sector" which "could have unintended consequences, including a negative impact on competition". The Early Warning was followed by formal GAC Advice which stated: "*For strings representing generic terms, exclusive registry access should serve a public interest goal.*"¹

As a non-profit membership organization which operates in a highly regulated market sector, CLIA's main objective in applying for .CRUISE was to "*provide a trusted source of comprehensive public information to benefit those interested in cruising and all members of the cruise industry.*"² In order to communicate its public interest goals, CLIA travelled to Canberra to meet with the Australian government before publicly responding to the formal GAC Advice and submitting a binding Public Interest Commitment Specification. Finally, when ICANN, in implementing the GAC Advice, prohibited registry operators of "Generic String" TLDs from imposing exclusive registry access, CLIA filed a change request to its application in order to clear any doubts as to its intentions to operate an open but restricted TLD in line with its mission and purpose.

In contrast, Viking did not respond to the GAC Advice in a timely manner. Viking's initial response to ICANN's outreach as to the intentions of applicants for "Generic String" TLDs, was to reiterate its intention to operate an exclusive access registry model, in direct opposition to ICANN's policies and to state that "*if ICANN is unwilling to allow these types of registries to proceed as planned, ICANN must at least provide an enhanced refund to applicants for these gTLDs.*"

¹ Beijing GAC Communique, 11 April 2013.

² CLIA's mission and purpose statement in Question 18(a) of the .CRUISE application.

CLIA's Application for .CRUISE

As the largest trade association for the global cruise industry and with 15 offices globally, CLIA represents more than 90 percent of the global cruise industry and celebrates its 40th anniversary in 2015. CLIA is the designated Non-Governmental Organization (NGO) for the global cruise industry at the United Nations' specialized agency the International Maritime Organization (IMO), a global maritime regulatory body with 170 Member States, including the United States, and its primary mission is to support policies and practices that foster a safe, secure, healthy and sustainable cruise ship environment for the more than 22 million passengers who cruise annually, as well as promote the cruise travel experience. CLIA serves the interests of the entire cruise industry, including:

- 63 Member Cruise Lines – From ocean to specialty cruise ships.
- 275 Executive Partners – As key suppliers and partners to the cruise lines, executive partners play a major role in the successful operation of cruising, including ports & destinations, travel operators, technical and supply chain providers and business service providers.
- 13,500 global travel agency members – CLIA travel agency members include the largest agencies, hosts, franchises and consortia and represent more than 50,000 individual travel agents around the world.
- More than 22 million passengers.

In line with its mission and purpose to foster socially responsible practices in the cruise industry in order to serve the public good, CLIA's business model is to require its cruise line Members to demonstrate their implementation of mandatory safety, security, environmental, labor and other policies and certify implementation of those policies through a combination of CEO-level verification and verification by third party auditors. Such certifications must be provided annually to help ensure cruise line Members remain in compliance with these important operational policies. CLIA, as the industry trade association, unlike any other applicant for the .CRUISE domain, is uniquely situated to maintain such a program for the good of the entire travelling public.

The intended registry model is clearly stated in CLIA's .CRUISE application and included as a binding commitment in CLIA's Public Interest Commitments (PICs). Eligibility to register a .CRUISE domain name, at any level, will be open to trusted, qualified members of the cruise industry including cruise operators, travel agents, vendors and service providers determined to have satisfactorily demonstrated that they comply with the mandated standards of safety and security and fulfil the necessary certification requirements. In order to ensure the proper application of these standards, registration eligibility will be validated upon the application for a domain name registration, and may be re-validated annually. This meets the Government Advisory Committee (GAC)'s requirements regarding the non-discriminatory policies for "generic string" TLDs listed as Category 2 TLDs in the GAC's Beijing Advice. It also provides a mechanism for the validation of eligibility that would address GAC concerns regarding TLDs applicable to regulated industries which have been identified as Category 1 TLDs. While .CRUISE has not, in fact, been identified as a Category 1 TLD, CLIA considers that such a validation mechanism would enhance the integrity of the .CRUISE TLD since the cruise industry is heavily regulated and monitored under both national laws and international maritime and labor law.

Amendment of Viking's Application

It is only now, some *two years* after the GAC Beijing Communique, that Viking has finally responded to the GAC Advice and submitted a change request (published 22 May 2015) seeking to change the nature of its TLD from a closed brand-operated registry to a restricted open one. Although Viking should have filed its

amendment two years ago, it succeeded in delaying contention resolution for the .CRUISE string until well after it signed its own Registry Agreement with ICANN for the .VIKING gTLD.

In its Q18B, as amended, Viking states that “the proposed gTLD will be a restricted, open gTLD where Members will be able to register second-level domains for their respective business purposes”, whilst Q18A, as amended, states that “the term ‘Members of the .CRUISE Community’ and ‘Members’ mean Applicant and its Affiliates, agents, network providers and others involved in the delivery of cruise-related services, including without limitation: companies that hold a license from a governmental or regulatory body to offer cruise services, companies that provide services or equipment to cruise providers, as well as consultants, resellers, engineers, etc., working with the cruise industry.”

Viking has no “Members” nor can it be classified in any way as a “membership organization”. Nevertheless, by this amendment, Viking purports to be able to speak on behalf of and to verify the credentials of a community of potential domain name registrants that it has no legitimate rights to represent, including its competitors. Whilst Viking is a well-known river cruise line operator and recently added one oceangoing ship to its fleet, it is only one such operator and, unlike CLIA, has no special status or expertise to speak on behalf of the cruise line industry nor to determine who meets the criteria to qualify as an appropriate member of that community. Further, by holding itself out in this way as being able to operate a TLD for the cruise industry there is a risk that potential registrants will be falsely misled into believing that Viking is, or represents, the official trade association for the industry.

Every aspect of the cruise experience is heavily regulated under U.S. and international law, maritime and labor conventions and flag and port State laws. Cruise industry regulations cover every aspect of the cruise experience — from ship design and construction to operations — all aimed at protecting and enhancing the safety, security and well-being of passengers and crew. CLIA members must adhere to the strict requirements of the IMO, which mandates global standards for the safe operation of cruise ships. Only CLIA is designated by the IMO, and only CLIA is therefore recognized by that specialized United Nations Agency as able to speak on behalf of the cruise industry. Only CLIA’s application for .CRUISE is therefore qualified to meet the public interest in this highly regulated industry. Surely, the Board would not want to grant a single industry player an advantage over other industry players in contravention of GAC advice and principles.

An application in the form proposed by Viking fundamentally changes the nature of the Registry that Viking intends to operate, more than *three years* after the new gTLD application window closed and more than two years after the GAC advice Viking’s amendment seeks to address. The vast majority of applicants who were subject to the GAC Category 2 Advice addressed that Advice in a timely manner, responding to ICANN on or around the requested September 2013 deadline. Viking deliberately failed to file an amendment for several years knowing that such failure to file would result in a prolonged delay of CLIA’s .CRUISE application until after Viking could be in a position to sign a Registry Agreement for its own brand TLD, .VIKING. Viking’s amendment should be refused and its application rejected.

Furthermore, an application at this late stage, long after the Objection filing period has closed, results in disparate treatment of applicants. Had Viking filed an application for an open-restricted TLD purporting to represent the cruise community at the outset, CLIA would have had the opportunity to object. If ICANN does not propose to refuse the amendment and reject Viking’s application for .CRUISE then, in order that CLIA is not discriminated against, such a fundamental change to the nature of the application must trigger a reopening of the objection period.

Please publish this letter on the ICANN correspondence page. Given the substantial length of time that CLIA's application has been in limbo, due to Viking's failure to address the GAC Advice in a timely manner, we would appreciate your early reply.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Lorri Christou', with a long, sweeping flourish extending to the right.

Lorri Christou
Senior Vice President, Strategic Marketing and Communications
Cruise Lines International Association