Reconsideration Request Form

Version of 11 April 2013

ICANN's Board Governance Committee is responsible for receiving requests for reconsideration from any person or entity that has been materially affected by any ICANN staff action or inaction if such affected person or entity believes the action contradicts established ICANN policies, or by actions or inactions of the Board that such affected person or entity believes has been taken without consideration of material information. Note: This is a brief summary of the relevant Bylaws provisions. For more information about ICANN's reconsideration process, please visit http://www.icann.org/en/general/bylaws.htm#IV and http://www.icann.org/en/committees/board-governance/.

This form is provided to assist a requester in submitting a Reconsideration Request, and identifies all required information needed for a complete Reconsideration Request. This template includes terms and conditions that shall be signed prior to submission of the Reconsideration Request.

Requesters may submit all facts necessary to demonstrate why the action/inaction should be reconsidered. However, argument shall be limited to 25 pages, double-spaced and in 12 point font.

For all fields in this template calling for a narrative discussion, the text field will wrap and will not be limited.

Please submit completed form to reconsideration@icann.org.

1. Requester Information

Name: Tennis Australia

Address: Contact Information Redacted

Email: Contact Information Redacted

Phone Number (optional): Contact Information Redacted

2. Request for Reconsideration of (check one only):

___ Board action/inaction

_X_ Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

Tennis Australia was notified by ICANN of the failure to obtain a passing score in

community priority evaluation in relation to its application for the .tennis TLD. It is this action Tennis Australia is seeking ICANN reconsideration, as further outlined in this document.

4. Date of action/inaction:

The community priority evaluation report posted by ICANN (http://newgtlds.icann.org/sites/default/files/tlds/tennis/tennis-cpe-1-1723-69677-17mar14-en.pdf) lists the date of 17 March 2014.

It is this action Tennis Australia is seeking ICANN reconsideration, as further outlined in this document.

5. On what date did you became aware of the action or that action would not be taken?

Tennis Australia was notified of ICANN's decision to not award the .tennis community priority application a passing score on the 19th of March 2014.

6. Describe how you believe you are materially affected by the action or inaction:

Tennis Australia are materially affected by these actions, as it has resulted in Tennis Australia's application for the .tennis TLD to be denied community priority status. The consequences of such actions are significant; not least that Tennis Australia must otherwise resolve contention of the .tennis TLD with 3 generic applicants who do not represent the needs of the global tennis community. This has two key impacts on Tennis Australia:

A) Tennis Australia must now face the proposition of spending significant funds which would have been otherwise earmarked for the tennis community and their core activities in the form of grassroots tennis, player welfare, athlete development and prize money, community outreach and capital improvement works. Tennis Australia is a not for profit business, this money will no longer be available to support tennis development based upon this decision for the .tennis TLD.

B) Tennis Australia and its representative community also faces the proposition of competing in an open market for domain names should a generic applicant secure the .tennis TLD, whereas the eligibility defined in the community application identifies strict name selection criteria which adequately protect community members.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

Tennis Australia believes that the community as defined in its application, the member organisations, tennis governing bodies, and individuals that make up the community, are materially affected by the chance that they may be held to the mercy of generic applicants who wish to monetise the .tennis TLD without thought and/or priority for community benefit.

8. Detail of Board or Staff Action – Required Information

Tennis Australia proposes the evaluation panel (and by extension ICANN staff) failed to properly evaluate the .tennis community priority application which directly affected Tennis Australia.

Tennis Australia believes the evaluation panel misinterpreted the application for criteria 2a, 2b and 3d, all of which resulted in scoring impacts for Tennis Australia. The areas where the evaluation panel failed to understand the application are detailed below:

A. Criterion 2a, Nexus
The community as defined by Tennis Australia in the community priority application specifically includes the global tennis community, as can be seen from the attached letters of endorsement from the following global governing bodies for tennis:

- International Tennis Federation
  The International Tennis Federation is the governing body of world tennis, made up of 210 national tennis associations or corresponding organizations of independent countries or territories.
- Association of Tennis Professionals (ATP)
  The ATP is the governing body of the men's professional tennis circuits – the ATP World Tour, the ATP Challenger Tour and the ATP Champions Tour. The ATP administers player ranking points and 61 tournaments in 30 countries.
- Women's Tennis Association (WTA)
  The WTA is the worldwide governing body for women's professional tennis. The WTA administers player ranking points and 54 tournaments in 33 countries.
- United States Tennis Association
  The United States Tennis Association is the governing body of tennis in the United States of America and responsible for the US Open, one of the four grand slams of tennis.
- French Tennis Federation
  The French Tennis Federation is the governing body of tennis in France and responsible for the French Open, one of the four grand slams of tennis.
- The All England Lawn Tennis and Croquet Club

The All England Lawn Tennis and Croquet Club is responsible for Wimbledon, one of the four grand slams of tennis.

- Lawn Tennis Association
  The Lawn Tennis Association is the governing body of tennis in the United Kingdom.

The comprehensive and global community displayed by the letters of endorsement above, when taken in context that the applicant Tennis Australia itself operates a Grand Slam tournament and thus the support is from all the major tournaments organizers and peak official and governing bodies, providing Tennis Australia's .tennis application with unquestionable endorsement and support from the global tennis community.

When considered with the fact that these organisations and their members are included in the defined eligibility stated in the Tennis Australia application shows that full points should be awarded as part of the evaluation as regards 2a Nexus. The passage in question is eligibility:

- "4. Tennis Australia Corporate Partners – Corporate entities who meet Tennis Australia guidelines such that they are included on the list of official Corporate Partners are eligible to register domain names which are an exact match or reasonable derivative of their operating name."

- "6. Tennis Australia-Endorsed or Sanctioned Tournament Organisers – Official organising bodies responsible for organising Tennis Australia-endorsed or sanctioned tennis tournaments."

The evaluation panel failed to understand that the fully inclusive global community is explicitly included via these passages.

B. Criterion 2b, Uniqueness.
Given the global and inclusive tennis community inclusive of all four grand slams, the WTA and ATP (the global men's and women's tennis governing bodies), and the International Tennis Federation which by association includes all 210 national member associations, Tennis Australia believes it represents the global tennis community. Therefore there is only one tennis community, allowing the .tennis community priority application to be eligible for full points on criterion 2b Uniqueness.

C. Criterion 3d, Enforcement
Additionally, ICANN failed to identify the Tennis Australia Member Protection Policy[1] when evaluating criterion 3d "Enforcement". Section 9, Complaints, of this policy adequately speaks to the issues raised by the evaluation panel as regards a dispute process. The community priority

[1] http://www.tennis.com.au/wp-content/uploads/2011/10/178_Member_Protection_Policy.pdf

evaluation guidelines state that the evaluation panel take into account an applicant's website during evaluation, however this did not occur, and a follow up clarification question was not issued which would have addressed this issue and modified the scoring outcome.

ICANN publically stated[2] the ability of the community priority evaluation panel to seek clarifying responses from applicants, yet they failed to do so, which resulted in fundamental misinterpretations of key components of Tennis Australia's application.

9. What are you asking ICANN to do now?

Tennis Australia seeks immediate reconsideration from a new and qualified evaluation panel for the .tennis community priority application inclusive of all information, which the evaluation panel can and should request via the channels available to them via the submitted answers, and any relevant clarification questions.

10. Please state specifically the grounds under which you have the standing and the right to assert this Request for Reconsideration, and the grounds or justifications that support your request.

Tennis Australia asserts that it has grounds to lodge this reconsideration request as a global leader in the tennis industry and as an applicant in the new Generic Top Level Domain Program and the right to lodge this request as the ICANN Bylaws state that a requester may bring a case if it has been affected by one or more staff actions or inactions that contradict established ICANN policy(s). In the circumstance identified in this reconsideration request Tennis Australia nominates the failure of ICANN staff and the nominated community priority evaluation panel (The Economist Intelligence Unit) to follow mandated ICANN policy and procedure for community priority evaluation by failing to fundamentally understand the application as submitted and not clarifying further with the applicant as available to them according to defined policy[3].

Additionally, Tennis Australia was materially harmed by the inaction of ICANN staff and its nominated community priority evaluators by assigning a failing score to the application for the .tennis TLD by Tennis Australia and therefore mandating Tennis Australia must compete in the open market against other applicants regardless of actual community relevancy (further detailed in the response to question 8).

This erroneous failure of the Tennis Australia community priority evaluation bears

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[2] ICANN communication regarding clarifying questions during CPE- http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf

[3] ICANN communication regarding clarifying questions during CPE- http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf

a direct causality to the failure of staff (and their nominated community priority evaluation panel) to adequately ensure defined process was followed.

11. Are you bringing this Reconsideration Request on behalf of multiple persons or entities? (Check one)

____ Yes

__X_ No

11a. If yes, Is the causal connection between the circumstances of the Reconsideration Request and the harm the same for all of the complaining parties? Explain.

Do you have any documents you want to provide to ICANN?

Tennis Australia wishes to submit the file "Tennis Australia_letters of support (26/0113).pdf", containing five (5) letters of endorsement from the peak global tennis authorities for the Tennis Australia .tennis gTLD application as referenced elsewhere in this document.

Two (2) additional documents will be submitted separately in due course and when availble.

Terms and Conditions for Submission of Reconsideration Requests

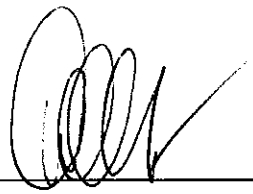
The Board Governance Committee has the ability to consolidate the consideration of Reconsideration Requests if the issues stated within are sufficiently similar.

The Board Governance Committee may dismiss Reconsideration Requests that are querulous or vexatious.

Hearings are not required in the Reconsideration Process, however Requestors may request a hearing. The BGC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing.

The BGC may take a decision on reconsideration of requests relating to staff action/inaction without reference to the full ICANN Board. Whether recommendations will issue to the ICANN Board is within the discretion of the BGC.

The ICANN Board of Director's decision on the BGC's reconsideration recommendation is final and not subject to a reconsideration request.



3/4/14

Signature Date

DAVID ROBERTS
Chief Operating Officer