October 23, 2013

Internet Corporation for Assigned Names and Numbers

Via e-mail: newgtld@icann.org

Dear ICANN:

Attached here is Donuts' comments regarding Community Priority Evaluation for the .IMMO string.

Thank you for your review of our input, and for forwarding this document to the evaluation panel.

Sincerely,

Donuts Inc.

Starting Dot Application for .IMMO: Comment to Community Priority Evaluation

INTRODUCTION

The Community Priority Evaluation ("CPE") is a serious undertaking. While it protects communities and their names, a "successful" CPE also disqualifies other applicants that otherwise have met the rigorous criteria to obtain a top-level domain:

> [A] qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application.

Applicant Guidebook ("Guidebook" or "AGB") § 4.2.3 at 4-9. Accordingly, ICANN created scoring to "identify qualified community-based applications," while preventing "false positives" -- *i.e.*, "awarding undue priority to an application that refers to a 'community' construed merely to get a sought-after generic word as a gTLD string." *Id.*

To obtain community priority, an application must score 14 out of 16 possible points. *Id.* at 4-10. "In cases of generic words submitted as community based strings, test runs by [ICANN] staff show that the threshold is difficult to attain …." *See* http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf. The Starting Dot application for <.IMMO> does not meet the criteria to garner nearly the 14 points necessary to "win" the CPE and disqualify other applicants.

Starting Dot appears to attempt to manufacture a community around many disparate functions involved in some way with real estate, to which the term "IMMO" can refer. Rather than choose a unique string such as perhaps .CEI, denoting the European organization that supports the .IMMO community application, Starting Dot applies for the easier-to-find, more globally-used and generic term "IMMO." This understandable business decision, however, sacrifices the "nexus" and "uniqueness" factors necessary to qualify as a community TLD. The generic word "IMMO," moreover, does not clearly reference a single community with identifiable boundaries or measurable size or longevity.

One cannot reasonably say that a cohesive "IMMO" ("real estate") community exists. Yet, undertaking the CPE presents a low cost, high reward gamble for Starting Dot, since "prevailing" in CPE process would eliminate all competing non-community applications and avoid the contention set resolution process that Starting Dot otherwise would have to go through. As this analysis reveals, however, Starting Dot cannot reach the 14-point minimum required to secure community priority.

ANALYSIS

The Guidebook allows the CPE panel to award up to four points in each of four categories (maximum points in parentheses):

- "Community establishment," which involves "delineation" (2) and "extension" (2), AGB at 4-10 *et seq.*;

- "Nexus," meaning both "nexus" (3) and "uniqueness" (1), *id.* at 4-12 *et seq.*;

- "Registration policies," consisting of "eligibility" (1), "name selection" (1), "content and use" (1) and "enforcement" (1), *id.* at 4-14 *et seq.*; and

- "Community endorsement," which considers "support" (2) and "opposition" (2), *id.* at 4-18 *et seq.*

Applying the standards established by ICANN for these criteria, and giving Starting Dot the benefit of all doubts on each, its application cannot reach four points on any of them. A fairer reading finds the application well short on each, making a total of 8 its highest reasonably achievable score.

> **CRITERION 1: The Starting Dot application does not establish a "community" under either the "delineation" or "extension" tests, thus yielding well less than the maximum of four points.**

A "community" as described in the Guidebook "impl[ies] more cohesion that a mere commonality of interest." AGB at 4-11. As such, the Guidebook calls for examining the claimed community in terns of its "delineation" and "extension." These concepts focus on (a) recognition of the alleged community by its members, (b) existence of the named community prior to September 2007, the commencement of the new gTLD program, and (c) the community's "tenure" into the future. *Id.*

Starting Dot describes the "community" identified by the .IMMO string as "the real estate community… composed of different business segments." Applic. § 20(c). This imprecisely defined "community" has no clear boundaries or global or regional organization. Consequently, the application does not provide any specificity regarding size and longevity of any "community" known by an "IMMO" label.

Nor does the alleged community pre-exist the new gTLD program in any such form. It seems invented by Starting Dot to gain a preference over other applicants. Such shortcomings limit the application to no more than 2 of the 4 possible points under this "community establishment" criterion.

> **The application exhibits no clear "delineation" of any "community."**

The "delineation" test, AGB at 4-11, considers three factors:

- "Delineation" of the membership of a community – "a clear and straightforward membership definition scores high, while an unclear, dispersed or unbound definition scores low." Guidelines include the following (*id.* § 3.5.2):

- o The level of public recognition of the group as a community at a local and/or global level; and

- o The level of formal boundaries around the community and what persons or entities are considered to form the community.

- Whether the alleged community "pre-exists" the new gTLD program—i.e., existed as a community before 2007; and

- The level of "organization" of the community, meaning that at least one entity dedicates itself mainly to the community, with documented evidence of community activities.

An application that satisfactorily demonstrates *all three* relevant parameters (delineation, pre-existing and organized) can score a 2. *Id.* at 4-12. The Starting Dot application does not do so, and therefore cannot receive 2 "delineation" points.

The application does not convey the required sense of community, unity of purpose, or cohesion. Instead, it artificially combines many disparate businesses that serve the real estate business in some way:

> Real estate is made up of different business segments … real estate construction services such as property development and home building, refurbishments, etc.; Realtors (rental or sale); Property traders (purchase and sale); Property managers … Commercial and Residential Real Estate Agents and Brokers; Rental Property Management Services; Real Estate Publishers (Information Media, Classified Media, Management Software); Service Providers for Real Estate Professionals; Real Estate Mortgage services (Loan, Insurance); Homebuilders; Real Estate Developers; Notaries. [Applic. § 20(c).]

More specifically, the CPE Guidelines (ver 2.0) ask: "Is there at least one entity mainly dedicated to the community?" Starting Dot answers:

> *There is no international umbrella organization spanning the entire community. …* Some industry segments however are neither organized nor represented by national associations, notably: - Real estate mortgage brokers or issuers; - Real estate publishers (management software, information media). *Starting Dot* has therefore mainly *built* relationships with *segments* of the real estate community…" [Applic. § 20(b) (emphases added).]

The application thus admits that no one organization dedicates itself to the community as the applicant defines it. To the contrary, Starting Dot touts that it has stepped in to build relationships where it concedes none previously existed. Admittedly lacking organization and not pre-existing as a community, the asserted community cannot receive 2 points.

The "community" also lacks clear "delineation," which looks to the "level of *formal boundaries* around the community and what persons or entities are considered to form the community." AGB § 3.5.2. Here, the application states membership can come from within one of many disparate groups that have no formal collective organization.

Again, "community" implies "more cohesion" than a "mere commonality of interest." AGB at 4-11. The dictionary defines "cohesion" as "the act or state of cohering; tendency to unite, to 'stick together.'" The Starting Dot application does not assert or demonstrate such "cohesion" among the over 600,000 different businesses and professions that the application states have varying levels of involvement in real estate. While those engaged in such endeavors may have common interests, they do not "tend to stick together." Real estate-related professionals and organizations sometimes may participate in common activity based on certain shared interests, but otherwise largely compete with one another.

The Starting Dot application cannot receive two points for community delineation. Even if the evauation panel finds some loosely delineated IMMO community, it could not award more than a single point.

Applicant does not show the "extent" of the claimed "community."

To receive one or two points for "extension," an application must demonstrate a "community of considerable size and longevity." "Extension" relates to the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime, as further explained below. If an application satisfactorily demonstrates both community size and longevity, it scores two "extension" points.

On this subject, ICANN requests the following:

- o When was the community established, including the date(s) of formal organization, if any, as well as a description of community activities to date?

- o The current estimated size of the community, both as to membership and geographic extent.

Applic. § 20(a). Starting Dot answers that "IMMO" describes "an industry that has defined itself for many decades. Real estate related activities and transactions first appeared in Europe during the 12th century." *Id.*

To reiterate, the Starting Dot application makes clear that many organizations support *segments* of the real estate industry, but admits that no organization exists to represent or serve the *entire* averred community. Starting Dot instead announces its intent to form a *new* community where "no international umbrella organization" had previously existed "spanning the entire community." *Id*. § 20(b).

The Guidebook clearly requires an identifiable formation date. Starting Dot answers that a real estate "community" has existed since land transactions in the 12th century,

and that Starting Dot itself, which has existed only two years, will unite the disparate interests within that "community." This does not suffice. If a community exists, it must, by Guidebook standards, have a specific beginning. The applicant cannot identify it because it cannot meaningfully describe its postulated community. Real estate involves disparate skills, interests, participants and business models – not a single community with clearly discernible age and size boundaries.

A new organization such as Starting Dot cannot satisfy the Guidebook criteria. It appears relatively unknown to the rest of the world, and even to its own claimed community. The application itself reveals Starting Dot's inability to specify the size and age of its "community." It certainly does not do so with the precision required for an award of two points.

If the CPE panel sees any points at all available, it cannot award more than one. Combined with its reduced (if any) "delineation" points, Starting Dot can receive a total of no more than two of the four available "community establishment" points.

> **CRITERION 2: The Starting Dot application does not establish a sufficient "nexus" to any "community" described by the word "IMMO," and the word certainly does not "uniquely" describe any such community.**

Criterion 2 requires a "nexus" between the asserted community and the applied-for string. AGB at 4-12. The test consists of a "nexus" factor of up to three points, and a "uniqueness" score of zero to one.

The application does not show that the claimed community, if it exists, goes by the specific name "IMMO" in the same sense that, for example, the "Navajo" and "Boy Scout" communities go by those precise names. The "IMMO" label has many uses made by diverse groups such that it cannot attach uniquely to an identifiable community designated by that term. As such, the application can achieve no more than two of a possible four "nexus" points.

> **The .IMMO string does not "match"or even "identify" a "community."**

The Guidebook scores "nexus" as follows:
- For a score of 3: The string matches the name of the community or is a well-known short-form or abbreviation of the community name;

- For a score of 2: String identifies the community, but does not qualify for a score of 3; and

- For a score of 0: String nexus does not fulfill the requirements for a score of 2.

AGB § 4.2.3. For a score of 2, the applied-for string should "closely describe the community or the community members, without over-reaching substantially beyond the community." *Id.* at 4-13. "If the string appears *excessively broad* (such as, for example,

a globally well-known but local tennis club applying for ".TENNIS") then it would **not** qualify for a 2." *Id.* (emphases added).

When asked to explain the relationship between the applied-for gTLD string and the community identified in the application, Starting Dot answers that the string derives from the Latin root "immobilis," meaning that "which cannot be moved or removed." It goes on to describe common usage of the term "immo" as a short form for the term "immobilier," or real estate. Applic. § 20(d).

To qualify for a 3, the applied-for <.IMMO> string must specifically name a community. One can belong to the boy-scouts-of-america or to the uk-philately-society, but not an "IMMO" or even a "real estate" community because it does not exist. The Guidebook holds out the score of 3 to those special cases only where a group decides to apply for for a string that states its name exactly.

A "2" means the applied-for string closely describes the community or its members "without over-reaching substantially beyond the community." AGB at 4-13. The Guidebook's example of a globally known but local tennis club not qualifying for a "2" as to the generic TLD <.TENNIS> applies to the <.IMMO> string that Starting Dot submits for CPE. Its application boasts a commonly accepted name, but also claims that, over time, "the .IMMO gTLD will gain general acceptance among real estate professionals." A name projected to gain acceptance over time cannot identify a well known and already existing community.

Based on the foregoing, the Starting Dot application *should* receive a score of zero for nexus, but *cannot* under *any* circumstances garner *more* than two points.

"IMMO" does not "uniquely" identify the claimed "community."

An applicant can earn a uniqueness score of 1 if the applied-for string has no other significant meaning beyond identifying the community described in the application; a score of zero does not fulfill this requirement. AGB § 4.2.3.

> To be an unambiguous identifier, the "ideal" string would have no other associations than to the community in question. This arguably can be achieved by using the community institution abbreviation as string, but there are other possibilities—for example, by putting a prefix or suffix on a generic string to make it distinctly and uniquely associated with the relevant community (again for example, prefixing "boy" to "scouts" for the community of boy scout organizations, or suffixing "growers" to "apple" for the associations of apple growers).

See http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf, p.103. This puts the necessary balancing in the hands of applicants. Does an applicant select a popular, well-recognized term that does not uniquely identify

a community, such as <.SCOUTS> or <.SCOUTING>? Or does the applicant select its own unique name, such as <.BOYSCOUTSOFAMERICA>?

"'Uniqueness' relates to the meaning of the string." *See* http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf, p.65. Here, by touting the common use of "IMMO," Starting Dot also exposes it as an ambiguous identifier. Applicant points out that the term serves as "a well-known short-form of words meaning real estate in several languages;" that "major property developers have included 'IMMO' ... , in their brand or domain name," and that consumers likewise recognize "IMMO" as a short-form meaning real estate. Applic. §20(d).   According to applicant, "'IMMO" is "commonly used in the real estate industry as part of a real estate professional's brand or trade name." *Id.*

In addition, the Guidebook states that the phrase "beyond identifying the community" implies a that the string must identify a community – *i.e.*, score 2 or 3 for "nexus" – in order to score 1 for "uniqueness." AGB at 4-14. Because it fails to show "nexus," Starting Dot cannot score a point for uniqueness.

Evidence of common use of the term "IMMO" may make the term an excellent choice for a top-level domain. However, its ubiquity betrays the applicant's claim to a label uniquely matched to its community. Starting Dot had to choose between a well-known, broadly used term and a string unique to a specific segment of a broad industry, and chose the latter. While this may have been a wise business decision, it sacrificed Starting Dot's ability to achieve points in nexus and uniqueness necessary to carry the day as a community applicant. Of the four total points available for "nexus," Starting Dot can earn no more than two.

> **CRITERION 3: The Starting Dot application can receive few, if any, points for registration policies: it imposes vague restrictions on eligibility, and none on content and use; its enforcement plan lacks rigor; and it employs essentially no name selection restrictions.**

"Registration policies" represent the conditions that the registry will set for prospective registrants – *i.e.*, those desiring to register second-level domains. A community application will recceive one point for each of the four following polcies:

- Eligibility restricted to community members (a largely unrestricted approach to eligibility receiving zero points);

- Name selection rules consistent with the articulated community based purpose of the applied for gTLD;

- Rules for content and use consistent with the articulated community based purpose of the applied for gTLD; and

- Specific enforcement mechanisms.

Guidebook § 4.2.3. The panel should score applications from a holistic perspective, applying these categories to the particularities of the community explicitly addressed. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application. *Id.*

Due to its sweeping definition of an "IMMO" community, Starting Dot's broad eligibility requirements do not meet the specific Guidebook criteria. It does not prescribe name selection rules beyond those associated with premium names. It describes essentially no content and use restrictions in the application. And, Starting Dot says it will employ post-delegation sampling techniques to detect non-compliance and undertake enforcement actions, but provides no further detail. These shortcomings could eliminate all four "registration" points, but even liberal interpretation could yield no higher than three, and more likely two or less.

Starting Dot does not establish eligibility criteria consistent with its community application.

An applicant must undertake a strict registration policy to score an eligibility point. In a policy advisory, ICANN noted:

> Registration policy is a criterion where a balance is needed between what is reasonably the most appropriate registration policy for a community and the risk for gaming of the process by an "open" application declaring itself as "community-based" to get an advantage in a contention situation. The approach taken is conservative in this respect, with the high score reserved for a registration policy only permitting members of the community to register.

http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf, p.103.

Starting Dot does describe candidate eligibility restrictions, but in a wide "funnel." In its application, Starting Dot indicates that it can verify registrants as participants in the real estate industry. Applic. § 20. The application lists community "members" such real estate construction services, realtors, property traders and managers, commercial and residential real estate agents and brokers, etc. *Id.* This over-broad classification does not limit registration by any objectively verifiable standards.[1] It makes the creation and

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[1] The list includes a number of subcategories that could extend the reach of the TLD even further. For example, the application seems to allow "notaries" to register a .IMMO domain if "entitled to practice in the field of real estate under their national law." *See* Applic. § 20(e). Yet, Starting Dot also points out that "[r]eal estate practice is not subject to one single law but to different national laws and in some countries to none." *Id*. § 18(b). Will notaries practicing in countries without formal regulation simply be "given a pass" because there is no specific limitation on their activities? As another example, banks and insurance companies would

monitoring of eligibility requirements difficult or ineffective. While not tantamount to "open" application eligibility, the vagueness of the criteria makes it seem as if Starting Dot is "gaming" the CPE procedure in a way discouraged by the ICANN comment above. Its largely unrestricted approach to eligibility should receive zero points.

> ### Starting Dot does not establish name selection restrictions consistent with its community application.

Name selection restrictions protect the identified community if their rules align with the articulated community-based purpose of the applied for gTLD. In this case:

> Starting Dot will comply with the restrictions on registration of character strings set forth at Specification 5 of the Registry Operator Agreement. Starting Dot also intends to define and control a list of domain names that have a value for the entire real estate community, in order to delegate them to registrants that commit to use these in order to support the community for which the .IMMO gTLD is initially intended. [Applic. §20(e).]

It goes on:

> Each name applied for will have to be a name to which there is a right that has been established through rights registration or use thereof. Such rights can consist of, but are not necessarily limited to, registered or unregistered trademarks, trade names, company names, business identifiers, etc. *Id.*

Additionally, "the list of prohibited names under the .IMMO gTLD includes" abusive, racist, obscene and criminal terms. *Id.*

Most of the foregoing describes minimal ICANN requirements. The applicant has added that each name must be one to which the registrant has a legitimate right, but this could be almost any name. The only names to which a registrant does not have a right are those already owned by others. While the names might relate to the broad category of real estate, they might also involve other subjects. Absent some ongoing type of name restrictions, the application cannot receive a point for name selection.

> ### Starting Dot does not describe any content and use policy consistent with its community application.

The Starting Dot application does not meet the "content and use" criteria and does not merit a point for this area. The Guidebook provides for the community gTLD operator to restrict content provided, and the use of any second-level domain name, in the registry. [CITE to AGB] In other words, the application needs to impose content and use

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seem to be permitted so long as they "offer," even if they do not specialize in, loans or insurance for "housing."

restrictions that correlate to serving and protecting the global real estate "community" in order to score a point on this element.

By contrast, the applicant states:

> Use of a domain name that is barred or prohibited by law or legal proceeding in any jurisdiction, or is considered to be defamatory will permit Starting Dot to revoke the domain name. Policies to this end will be developed by the registry and published in due time following ICANN's delegation of the .IMMO gTLD to Starting Dot.

Applic. § 20. This indicates that the applicant has not determined restrictions on use and content specific to the community it purports to represent. Its "restrictions" do not restrict at all; they merely state that using a name expressing some involvement with real estate represents evidence of eligibility. While this may go to the "name selection" factor, it does not at all constitute content or use limitation. Such restrictions would set out policies for how registrants must operate their domains.

The lack or weakness of content and use restrictions does not derogate from the value of a .IMMO string. The applicant proposes a legitimate and useful way to operate a TLD targeting the real estate professionals and their supporting organizations. However, such a TLD, with its openness to all, cannot also legitimately adopt the community label within the meaning of the Guidebook. Having made that choice, Starting Dot cannot earn a point for content and use restrictions.

Starting Dot's enforcement procedures fall short.

Award of a point on enforcement requires specificity: investigation practices, penalties, and takedown procedures. As described above, the subject application is scant on registration policies and restrictions, including those on enforcement procedures:

> In principle, each new .IMMO domain name registrant will be verified within 3 month following registration. Starting Dot will verify whether a registrant meets the eligibility requirements and/or domain name restrictions on the basis of public information, such as the information displayed on the registrant's website, as well as other sources (Internet, public registries). When in doubt, the Registry Operator will put the domain name on hold, and contact the registrant and the registrar with the request to provide proof that the registrant is meeting such requirements within a reasonable timeframe (e.g. copy of professional card). Furthermore, Starting Dot's Complaints Point of Contact will handle any complaints in relation to a .IMMO domain name registration, including where the complainant alleges that a particular registrant does not meet the eligibility requirements or domain name restrictions.

While the application provides some basic direction, the enforcement plan lacks the specifics that the Guidebook requires to ensure that the community applicant takes protection of the community label seriously and adequately plans for enforcement of the registry restrictions. The current plan lacks policies, procedures, budget, staffing, resources and other indicia of a meaningful enforcement plan or compliance regime. While Starting Dot signals a willingness to enforce restrictions, the planning thus far does not rise to the level that a point should be awarded. According to the application, registrants will self-certify that they meet registrations requirements and the applicant will "in principle" work to verify those credentials after three months of operation.

A few sentences in the application do not satisfy the need for procedures regarding detection, penalties and appeal. Given the practically non-existent restrictions in the planned TLD, its vague enforcement mechanisms render protections ineffective.

While each of the four "registration policy" elements falls short and merits zero points, even a liberal reading of the criteria collectively yields less than the four possible points. The applicant laudably seeks to serve all those who define themselves as associated with real estate industry. To accomplish that goal, it has foregone the ability to enact strict eligibility, content and use, name selection and enforcement policies.

> **CRITERION 4: The Starting Dot application does not have support from a majority of the newly formed "community," nor does it show how even that limited support was developed.**

The "support" criterion actually looks at both support and opposition in awarding up to four points to an application. For "support," the applicant must demonstrate that:

- It is, or has documented support from, the recognized community institution(s)/member organization(s) or has otherwise documented authority to represent the community. It must have documented support from institutions/organizations representing a *majority* of the overall community in order to score 2.

- Documented support from at least one group with relevance may allow a score of 1, but does not suffice for a score of 2.

For consideration as relevant support, documentation *must contain a description of the process and rationale used in arriving at the expression of support*. Support is not based merely on the number of comments or expressions of support received. AGB § 4.2.3.

On the opposition side, an application will earn two points where it lacks any opposition of relevance, and one where it has "relevant" opposition from "one group of non-negligible size." It will be awarded no points in the case of "relevant opposition from two or more groups of non-negligible size." *Id.*

Starting Dot has assembled support letters from several organizations, but they do not represent the majority of the "community" that Starting Dot attempts to create.

Neither do the nearly identical form letters demonstrate the process by which Starting Dot developed that support. These factors prevent a score of two, allowing one at most.

The applicant provides letters of support from:

– C.E.I. (European Union)
– F.N.A.I.M. (France)
– U.N.I.S (France)
– S.V.I.T. (Switzerland)
– U.S.P.I. (Switzerland)
– F.F.2.I. (France)
– B.T.V. (Austria)
– I.V.D. (Germany)
– Südtiroler Maklervereinigung (Italy)

However, a cursory search reveals many other such associations:

– Asociace realitnich káncelaři České republiky (Czech Republic)
– Asociación Empresarial de Gestión Inmobiliaria (Spain)
– Association of Institutional Investors in the Netherlands (The Netherlands)
– Associazione Nazionale Amministratori Condominiali e Immobiliari (Italy)
– CEAB (Assoc. Membre) Consejo General de Colegios de Administradores de Fincas (Spain)
– Chambre Immobilière du Grand-Duché de Luxembourg (Luxemborg)
– Círculo Imobiliário (Portugal)
– Confédération des Immobiliers de Belgique (Belgium)
– Conseil Européen des Professions Immobilières (European Union)
– CoreNet Global (Europe)
– Dachverband Deutscher Immobilienverwalter e.V. (Germany)
– Dansk Ejendomsmaeglerforening (Denmark)
– Ejendomsforeningen Danmark (Denmark)
– European Association of Investors in Non-listed Real Estate Vehicles (Europe)
– European Public Real Estate Association (Europe)
– European Public Real Estate Association (global)
– European Real Estate Council/Conseil Européen des Professions Immobiliéres
– European Real Estate Society (Europe)
– Fachverband der Immobilien- und Vermögenstreuhänder (Austria)
– Fédération International des Géomètres (Europe)
– Fédération Internationales des Professions Immobilières (global)
– GYODER, Turkish Association of Real Estate Companies (Turkey)
– Hungarian Real Estate Association (Hungary)
– Institut professionnel des Agents immobiliers (Belgium)

- Irish Property and Facility Management Association (Ireland)
- Kiinteistönvälitysalan Keskusliitto ry (Finland)
- Mäklarsamfundet (Sweden)
- Nederlandse Vereniging van Makelaars in onroerende Goederen en Vastgoeddeskundigen (The Netherlands)
- Norges Eiendomsmeglerforbund (Norway)
- Norges TakseringsForbund – Norwegian Valuers and Surveyors Association (Norway)
- Ordre des Géomètres-Experts (France)
- Polish Real Estate Federation (Poland)
- Polska Federacja Rynku Nieruchomości (Poland)
- Polska Federacja Stowarzyszen Zarządców Nieruchomości (Poland)
- Real Estate Council of the Netherlands (The Netherlands)
- Scandinavian International Property Association (Europe)
- Suomen Isännöintiliitto ry (Finland)
- Syndicat national des Professionnels immobiliers (France)
- The Society of Chartered Surveyors Ireland (Ireland)
- Turkish Counsel of Shopping Centers (Turkey)

Based on these lists, it does not appear that Starting Dot has secured backing from the majority of the real estate "community" as defined in the application. Starting Dot does not demonstrate that its support comes from a majority of the alleged community. Its own application suggests otherwise, as the letters it offers show no concurrence from important segments of the "community" that Starting Dot has self-defined, such as development companies, surveyors, notary publics and publishers of real estate media.

Just as importantly, the letters lack the requisite *description of the process and rationale used in arriving at the expression of support*. Each of the letters states, "[this organization], is glad to confirm its support to your initiative to develop a new generic top level domain." None includes any description of the process for arriving at that conclusion (as required for a score of even one point). Further, these letters seem to match each other in content, suggesting a form drafted by Starting Dot as to which the signing organizations have given little if any independent thought showing them arriving at a consistent position on their own. The "cookie-cutter" nature of the letters, unsubstantiated and lacking the requisite foundation describing process, belies a claim of true "support," such that the panel may not consider them "relevant" under the AGB.

Again, this does not diminish the effort and preparation exhibited by Starting Dot's application and supplementary materials. One would expect to find it exceedingly difficult to gain the requisite support required from such a large, unbounded "community" that Starting Dot attempts to create. This is why ICANN has set the CPE criteria so high—to prevent the creation of artificial communities in order to gain an advantage in the new gTLD process.

One letter opposes the application. Generally, one letter will not suffice to delete a point. However, this opponent seems to speak for an entire segment of this newly created real estate industry combination, and also provides independent feedback regarding the vagueness of the proposed community definition:

> We are convinced that .IMMO by StartingDot refers to a "community" construed merely to get a sought-after generic word as a gTLD string. As a member of this community we are not properly represented by this application and ask ICANN not to award a community status to .IMMO by Starting Dot.

> Additionally we would like to state that some of the proposed community members, such as notaries, banks and insurances are definitely not members of the real estate ([i.e.,] IMMO) community. It is utterly ridiculous to construct such a relationship.

The application should lose three of four points in this area. The application lacks support from a majority of "community" members, and the form letters that Starting Dot has gathered do not describe how the various organization came to support the application (if indeed they did). The opposition from one putative "community member" itself points out that Starting Dot has over-reached in its attempt to create such a broad diverse organization and call it a "community."

As outlined above, since Starting Dot should garner no more than a single point for this factor it must therefore also fail the CPE test as a whole, even if the severe shortcomings in other factors such as delineation or nexus are not considered. Starting Dot simply cannot obtain the 14 out of 16 points necessary to pass when it scores either a 0 or only 1 point for any single factor. AGB at 4-10.