

fTLD Registry Services, LLC  
1120 Connecticut Avenue, NW  
Washington, DC 20036  
+1 202 589 2532  
[www.ftld.com](http://www.ftld.com)

November 8, 2013

Dr. Stephen D. Crocker  
Chair, Board of Directors  
ICANN  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094

Dear Dr. Crocker,

On behalf of fTLD Registry Services, LLC (fTLD), the only community-based applicant for the .bank and .insurance gTLDs, I am writing in response to your 29 October 2013, letter to Ms. Heather Dryden, Chair of ICANN's Governmental Advisory Committee (GAC), regarding the New gTLD Program Committee's (NGPC) response to implementing GAC Advice and to address the recent call for action by some applicants that ICANN develop an appeals mechanism for the Community Objection process.

As an applicant subject to Category 1 GAC Advice, we are pleased to see movement on this issue. When the GAC Advice was issued on April 11, 2013, fTLD was encouraged with the approach taken for gTLDs linked to regulated markets though we would have preferred the approach to GAC Advice be the same as Early Warnings (i.e., action on specific applications vs. categories of applications) as is outlined in the Applicant Guidebook.<sup>1</sup>

fTLD largely supports the NGPC's implementation for Category 1 GAC Advice. However, we have significant concerns with two aspects of the implementation:

- We believe NGPC's modifications to Safeguard #6 serve to weaken it inappropriately. The NGPC's implementation includes the provision that registrars "Include in their Registration Agreements a provision requiring a representation that the Registrant possesses any necessary authorisations, charters, licenses and/or related credentials for participation in the sector associated with the Registry TLD string." We believe this language weakens the original GAC Advice version that stated, "At the time of registration, the registry operator must verify and validate the registrants' authorisations, charters, licenses and/or other related credentials for participation in that sector." We do believe there are certain gTLDs that warrant the verification of registrant authorisations, charters, licenses and/or other related credentials prior to the activation of a domain name. The requirement to validate registrants prior to activation of their domain name was included in the enhanced security standards submitted to ICANN on

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<sup>1</sup> See Section 1.1.2.7: "The GAC may provide public policy advice directly to the ICANN Board on any application" and Section 3.1: "The process for GAC Advice on New gTLDs is intended to address applications that are identified by governments to be problematic, e.g., that potentially violate national law or raise sensitivities."

December 20, 2011<sup>2</sup>, by the Financial Services Roundtable and the American Bankers Association. fTLD has adopted this approach. Further, we do not believe that the mere representation of possessing the aforementioned “credentials” by a registrant is adequate for gTLDs representative of regulated markets or those that have clear entry (i.e., licensing) requirements. Registries should be required to validate a registrant’s allegation that it is a credentialed entity with an independent credentialing source rather than just rely on the registrant’s allegation.

- We would also suggest that the Public Interest Commitment Specifications (PICs) are not the most effective way to implement the GAC Advice. PICs may be amended over time or in the case of some registry operators discontinued at their sole discretion and upon notice to ICANN. In those situations, the protective provisions originally specified via a PIC would become moot. It may be more appropriate to add a Specification 13, GAC Advice Safeguards that are subject to a different process for requesting changes to a Registry Agreement.

fTLD strongly urges the NGPC and the GAC to engage in further dialog on the above two areas in light of the potential harm to consumers in connection with these regulated industries.

In addition to the aforementioned issue and relevant to the NGPC’s responsibilities, earlier this week a group of applicants requested<sup>3</sup> that ICANN add an appeals process for Community Objection proceedings because an applicant for the .sport gTLD lost in a community objection. Interestingly, while many of the co-signers of the letter have argued<sup>4</sup> on numerous occasions that it would be inappropriate to make changes to the Applicant Guidebook, some of them are now appealing to ICANN for such a change. Entities that availed themselves of the Community Objection process and in some cases paid hundreds of thousands of dollars to participate, knew the risks when they chose to participate. fTLD sees no need to introduce new processes into the new gTLD program.

Sincerely,



Craig Schwartz  
Director

cc: Fadi Chehadé, President and CEO, ICANN  
Christine Willett, Vice President, gTLD Operations, ICANN  
Cherine Chalaby, ICANN Board, Chair, New gTLD Program  
Heather Dryden, Chair, ICANN Governmental Advisory Committee

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<sup>2</sup> See <http://www.icann.org/en/news/correspondence/aba-bits-to-beckstrom-crocker-20dec11-en.pdf>

<sup>3</sup> See <http://newgtlds.icann.org/en/program-status/correspondence/sahjwani-et-al-to-chalaby-et-al-01nov13-en.pdf>

<sup>4</sup> See CircleID post at [http://www.circleid.com/posts/20130912\\_reflections\\_on\\_euis\\_new\\_cpe\\_guidelines/](http://www.circleid.com/posts/20130912_reflections_on_euis_new_cpe_guidelines/)