

## **Board Accountability Mechanisms Committee Activities Report**

1 January 2021 – 30 June 2021<sup>1</sup>

### **Summary:**

#### Completed Activity:

1. Reconsideration Request 21-1 (Dot Hotel Limited and Domain Venture Partners PCC Limited/.HOTEL)
2. Legal Expense Approval
3. Update on .WEB Independent Review Process (IRP)
4. Update on IRP Implementation Oversight Team (IOT) and IRP Standing Panel Progress
5. Litigation Update
6. Reconsideration Request 21-2 (Pooja Gupta/Renewal of a Domain Name)

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<sup>1</sup> This report is intended to capture the activities of the BAMC, from 1 January 2021 to 30 June 2021. However, because the report was prepared in July 2021, a few activities that occurred in July 2021 are also captured in the report.

**Section I: Completed Activity**

Item	Description of BAMC Activity	BAMC Completion Date	Accomplishments/Outcome
<p>1. Reconsideration Request 21-1 (Dot Hotel Limited and Domain Venture Partners PCC)</p>	<p>Request 21-1 was submitted by Dot Hotel Limited and Domain Venture Partners PCC Limited (Requestors), seeking reconsideration of the ICANN Board's and ICANN staff's approval of a change of control request from the registry operators owned and controlled by Afilias, Inc. (Afilias) related to Afilias's proposed merger with Donuts Inc. (Donuts) (the Afilias/Donuts Transaction). The Requestors claimed that ICANN's approval of the Afilias change of control request violated the ICANN Bylaws calling for nondiscriminatory treatment, transparency, and the requirement to seek broad informed participation in all levels of policy development and decision-making. The Requestors also alleged that the approval process differed from the process ICANN used to evaluate change of control requests related to the proposed acquisition of Public Interest Registry by Ethos Capital in 2020. The BAMC evaluated whether Request 21-1 was sufficiently stated pursuant to Article 4, Section 4.2(k) of the ICANN Bylaws and determined that it was not. The BAMC concluded that the Requestors' allegation that they were adversely affected by the Afilias/Donuts Transaction because it resulted in Donuts owning two competing .HOTEL applications falls short of the necessary showing for harm. The Committee also noted that nothing in the Applicant Guidebook prohibits a gTLD applicant from maintaining two applications for the same gTLD. The BAMC further concluded that the Requestors' suggestion that they might be harmed by some future ICANN action had nothing to do with the action challenged in Request 21-1. The BAMC also found that the Requestors' claim that they were harmed because ICANN's approach to reviewing the Afilias change of control request was somehow inconsistent with ICANN's evaluation process for another transaction did not confer standing. Finally, the BAMC determined that the Requestors' assertion that they were harmed by ICANN's alleged violation of its Bylaws because they "rel[ied] on ICANN to fulfill its Bylaws commitments as referenced in the Applicant Guidebook, the gTLD Registry Agreements, and otherwise," stated no harm to the Requestors.</p>	<p>16 April 2021</p>	<p>The BAMC summarily dismissed the Request 21-1. (See <a href="#">Summary Dismissal</a>)</p>
<p>2. Legal Expense Approval</p>	<p>The BAMC reviewed and discussed a request to approve a tranche of money for legal fees for a particular matter. Following discussion, the</p>	<p>16 April 2021</p>	<p>On 12 May 2021, the Board approved a tranche of money to pay certain costs of a</p>

Item	Description of BAMC Activity	BAMC Completion Date	Accomplishments/Outcome
	BAMC approved a recommendation to the Board for approval of a tranche of funds to be used for a particular matter.		particular matter. (See <a href="#">Resolutions 2021.05.12.03 – 2021.05.12.04.</a> )
3. Update on .WEB Independent Review Process (IRP)	The BAMC received an update on the status of .WEB IRP.	16 April 2021	N/A
4. Update on IRP Implementation Oversight Team (IOT) and IRP Standing Panel Progress	The BAMC received a briefing on the progress of the work underway in the IRP-IOT and on the establishment of the IRP omnibus Standing Panel.	16 April 2021	In its oversight function, the BAMC will continue to receive regular updates on the progress of the IRP-IOT and the work on the establishment of the IRP Standing Panel.
5. Litigation Update	The BAMC received an update on pending litigation and dispute matters in which ICANN is a party or has an interest.	16 April 2021	The BAMC will continue to receive regular updates on pending litigation matters or disputes in which ICANN is a party or has an interest.
6. Reconsideration Request 21-2 (Pooja Gupta/Renewal of a Domain Name)	The Requestor sought reconsideration of certain actions taken by Net 4 India (a former ICANN-accredited registrar) relating to the renewal of the domain name poojashroof.in. The Requestor did not identify any ICANN action or inaction that is being challenged. On 7 July 2021, the BAMC determined that the merits of the Requestor's claims was beyond the scope of the BAMC's procedural evaluation. Accordingly, the BAMC concluded that Request 21-2 did not meet the requirements for bringing a reconsideration request and therefore summarily dismissed Request 21-2.	7 July 2021	The BAMC summarily dismissed the Request 21-2. (See <a href="#">Summary Dismissal</a> )