

## Board Accountability Mechanisms Committee Activities Report

1 July 2018 – 31 December 2018<sup>1</sup>

### Summary:

#### Completed Activities:

- Reconsideration Request Determinations/Recommendations:
  - Reconsideration Request 14-42 (Ministry of Industry, Trade, Investment and Digital Economy of the Kingdom of Morocco/.TATA)
  - Reconsideration Request 16-8 (CPA Australia Ltd/.CPA)
  - Reconsideration Request 16-11 (Travel Reservations SRL, Spring McCook, LLC, Minds + Machines Group Limited, Famous Four Media Limited, dot Hotel Limited, Radix FZC, dot Hotel Inc., Fegistry, LLC/.HOTEL)
  - Reconsideration Request 16-12 (Merck KGaA/.MERCK)
  - Reconsideration Request 18-8 (Afilias Domain No. 3 Limited/.WEB)
  - Reconsideration Request 18-9 (DotKids Foundation/.KIDS)
  - Reconsideration Request 18-10 (The Amazon Cooperation Treaty Organization/.AMAZON and related IDNs)
  
- Other Matters
  - Further consideration of Asia Green IT System Bilgisayar San. Ve Tic. Ltd. Sti. V. ICANN Independent Review Process (IRP) Final Declaration (.HALAL/.ISLAM)
  - Further consideration of Gulf Cooperation Council v. ICANN Independent Review Process (IRP) Final Declaration (.PERSIANGULF)
  - BAMC Succession Plan

#### In-Progress Activities:

- Reconsideration Requests Under Consideration:
  - Reconsideration Request 16-3 (dotgay LLC/.GAY)
  - Reconsideration Request 16-5 (dotMusic Limited/.MUSIC)

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<sup>1</sup> This report is intended to capture the activities of the BAMC, from 1 July 2018 to 31 December 2018. However, because the report was prepared in January 2019, the significant activities that occurred in January 2019 are also captured in the report.

## Section I: Completed Activities

Item	Description of BAMC Activity	BAMC Completion Date	Accomplishments/Outcome
<p>1. Reconsideration Request 14-42 (Ministry of Industry, Trade, Investment and Digital Economy of the Kingdom of Morocco, .TATA)</p>	<p>Request submitted by Moroccan government on TATA Son's application for .TATA seeking reconsideration of the GEO Names Panel's finding met all the relevant criteria in section 2.2.1.4.3 of the AGB. Following additional evidence submitted by the Moroccan government, TATA Son's application was sent back to the Geo Names Panel for re-evaluation. Request 14-42 was placed on hold pending re-evaluation. The applicant's significantly extended and final deadline to provide documentation demonstrating sufficient support of the region expired on 30 November 2016. On 13 January 2017, the Geo Names Panel issued a new report, finding that the required documentation of support or nonobjection was either not provided or did not meet the criteria described in Section 2.2.1.4.3 of the AGB and therefore the application was ineligible for further review. The application status was changed to "Will Not Proceed".</p> <p>On 25 January 2018, the BAMC determined that Request 14-42 is denied for mootness because the relief requested by the Requestor has already been effectuated by the outcome of the Geo Names Panel's re-evaluation of TATA Son's application. (See <a href="#">BAMC Determination on Reconsideration Request 14-42</a>)</p>	<p>25 January 2019</p>	<p>On 25 January 2019, the BAMC determined that Request 14-42 is denied for mootness because the relief requested by the Requestor has already been effectuated by the outcome of the Geo Names Panel's re-evaluation of TATA Son's application. (See <a href="#">BAMC Determination on Reconsideration Request 14-42</a>)</p>
<p>2. Reconsideration Request 16-8 (CPA Australia Ltd/.CPA)</p>	<p>Request submitted by CPA Australia (Requestor) seeking reconsideration of the CPE panel's report finding that the Requestor's application for the .CPA gTLD did not prevail in CPE, and ICANN's acceptance of the CPE Report. On 14 December 2018, the BAMC recommended that Request 16-8 be denied because ICANN org and the CPE provider acted consistent with the Guidebook and did not violate applicable policies or procedures when the CPE Provider determined that the Application did not satisfy the requirement for Community Priority and ICANN org accepted the CPE</p>	<p>14 December 2018</p>	<p>On 14 December 2018, the BAMC recommended that Request 16-8 be denied because ICANN org and the CPE provider acted consistent with the Guidebook and did not violate applicable policies or procedures when the CPE Provider determined that the Application did not satisfy the requirement for Community Priority and ICANN org accepted the CPE Report. (See <a href="#">BAMC Recommendation on Reconsideration Request 16-8</a>).</p>

Item	Description of BAMC Activity	BAMC Completion Date	Accomplishments/Outcome
	<p>Report. (See <a href="#">BAMC Recommendation on Reconsideration Request 16-8</a>).</p>		<p>On 8 January 2019, the Requestor withdrew Request 16-8. (See <a href="#">Email from Alan Karabardak to ICANN org dated 8 January 2019</a>.)</p>
<p>3. Reconsideration Request 16-11 (Travel Reservations SRL, Spring McCook, LLC, Minds + Machines Group Limited, Famous Four Media Limited, dot Hotel Limited, Radix FZC, dot Hotel Inc., Fegistry, LLC,/.HOTEL)</p>	<p>Request submitted by Travel Reservations SRL, Spring McCook, LLC, Minds + Machines Group Limited, Famous Four Media Limited, dot Hotel Limited, Radix FZC, dot Hotel Inc., and Fegistry, LLC (collectively Requestors) seeking reconsideration of Board Resolutions <a href="#">2016.08.09.14 – 2016.08.09.15</a> determining that cancellation of Hotel Top-Level Domain S.a.r.l.'s (HTLD's) application for .HOTEL was not warranted, and directing that HTLD's application for .HOTEL move forward. The Requestors also request a meaningful review of the HTLD's .HOTEL CPE to ensure consistency.</p> <p>On 16 November 2018, the BAMC recommended that Request 16-11 be denied because ICANN org did not violate ICANN's Mission, Commitments and Core Values when it passed the 2016 Resolutions. (See <a href="#">BAMC Recommendation on Reconsideration Request 16-11</a>).</p>	<p>27 January 2019</p>	<p>On 16 November 2018, the BAMC recommended that Request 16-11 be denied because ICANN org did not violate ICANN's Mission, Commitments and Core Values when it passed the 2016 Resolutions. (See <a href="#">BAMC Recommendation on Reconsideration Request 16-11</a>).</p> <p>On 27 January 2019, the Board adopted the BAMC's Recommendation. (See <a href="https://www.icann.org/resources/board-material/resolutions-2019-01-27-en - 2.f">https://www.icann.org/resources/board-material/resolutions-2019-01-27-en - 2.f</a>)</p>
<p>4. Reconsideration Request 16-12 (Merck KGaA,/.MERCK)</p>	<p>Request submitted by Merck KGaA seeking reconsideration of the CPE panel's report finding that Merck did not prevail in CPE for the .MERCK string (CPE Report), and ICANN's acceptance of the CPE Report.</p> <p>On 14 December 2018, the BAMC recommended that Request 16-12 be denied because ICANN org and the CPE provider acted consistent with the Guidebook and did not violate applicable policies or procedures when the CPE Provider determined that the Application did not satisfy the requirement for Community Priority and when ICANN org accepted the CPE Report. (See <a href="#">BAMC Recommendation on Reconsideration Request 16-12</a>).</p>	<p>27 January 2019</p>	<p>On 14 December 2018, the BAMC recommended that Request 16-12 be denied because ICANN org and the CPE provider acted consistent with the Guidebook and did not violate applicable policies or procedures when the CPE Provider determined that the Application did not satisfy the requirement for Community Priority and when ICANN org accepted the CPE Report. (See <a href="#">BAMC Recommendation on Reconsideration Request 16-12</a>).</p>

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	<p><a href="#">16-12</a>).</p>		<p>On 27 January 2019, the Board adopted the BAMC's Recommendation. (See <a href="https://www.icann.org/resources/board-material/resolutions-2019-01-27-en#2.h">https://www.icann.org/resources/board-material/resolutions-2019-01-27-en#2.h</a>)</p>
<p>5. Reconsideration Request 18-8 (Afilias Domain No. 3 Limited/.WEB)</p>	<p>Request submitted by Afilias Domains No. 3 Limited seeking reconsideration of ICANN org's DIDP response, for documents relating to the .WEB contention set. Specifically, the Requestor claims that, in declining to produce certain requested documents, ICANN org violated its Commitments established in the Bylaws concerning accountability, transparency, and openness.</p> <p>On 28 August 2018, the BAMC recommended that Request 18-8 be denied because ICANN org did not violate ICANN's commitments, Core Values or established ICANN policy(ies) in its response. (See <a href="#">BAMC Recommendation on Reconsideration Request 18-8</a>).</p>	<p>6 November 2018</p>	<p>On 28 August 2018, the BAMC recommended that Reconsideration Request 18-8 be denied.</p> <p>On 6 November 2018, the Board adopted the BAMC's recommendation. (See <a href="https://www.icann.org/resources/board-material/resolutions-2018-11-06-en#2.a">https://www.icann.org/resources/board-material/resolutions-2018-11-06-en#2.a</a>)</p>
<p>6. Reconsideration Request 18-9 (DotKids Foundation/.KIDS)</p>	<p>Request submitted by DotKids Foundation seeking reconsideration of ICANN org's response to the Requestor's request, pursuant to the "Final Report of the Joint SO/AC New gTLD Applicant Support Working Group (JAS)" for financial support for engaging in the string contention resolution process for the .KID/.KIDS contention set. Specifically, the Requestor claims that "ICANN's premature rejection of the request stating that [ICANN org] is 'unable to provide such financial assistance' and that 'additional funding past evaluations ... is currently out of scope' goes against the community developed final report by the [JAS]." (Request 18-9 at Pg. 3.) The Requestor also asserts that ICANN organization's decision goes "against ICANN's core value to ascertain the global public interest."</p> <p>On 16 November 2018, the BAMC recommended that Request 18-9 be denied because ICANN org did not</p>	<p>27 January 2019</p>	<p>On 16 November 2018, the BAMC recommended that Request 18-9 be denied because ICANN org did not violate ICANN's commitments, Core Values or established ICANN policy(ies) in its response to the Requestor's response for financial assistance for engaging in the string contention resolution process for the .KID/.KIDS contention sets. (See <a href="#">BAMC Recommendation on Reconsideration Request 18-9</a>).</p> <p>On 27 January 2019, the Board adopted the BAMC's Recommendation. (See <a href="https://www.icann.org/resources/board-material/resolutions-2019-01-27-en#2.g">https://www.icann.org/resources/board-material/resolutions-2019-01-27-en#2.g</a>.)</p>

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	violate ICANN's commitments, Core Values or established ICANN policy(ies) in its response to the Requestor's response for financial assistance for engaging in the string contention resolution process for the .KID/.KIDS contention sets. (See <a href="#">BAMC Recommendation on Reconsideration Request 18-9</a> ).		
7. Reconsideration Request 18-10 (The Amazon Cooperation Treaty Organization (ACTO)/.AMAZON and related IDNs)	<p>Request submitted by ACTO seeking reconsideration of ICANN Board's resolution regarding New gTLD Applications for .AMAZON and related IDNs (i.e. <a href="#">Resolution 2018.10.25.18</a>).</p> <p>On 21 December 2018, the BAMC recommended that Request 18-10 be denied because ICANN Board did not fail to consider material information, rely on false or inaccurate information or violate applicable policies or procedures when it adopted the challenged Resolution. The BAMC also acknowledged that Request 18-10 reflects a difference in interpretation by the Requestor of the Resolution, and thus, the BAMC recommended that the Board reiterate that the Resolution was taken with the clear intention to grant the President and CEO the authority to progress the facilitation process between the ACTO member states and the Amazon corporation with the goal of helping the involved parties reach a mutually agreed solution, but in the event they are unable to do so, the Board will make a decision at ICANN 64 on the next steps regarding the potential delegation of .AMAZON and related top-level domains. The BAMC also recommended that the Board continue receiving updates on the facilitation process from the ICANN President and CEO in anticipation of revisiting the status of the .AMAZON applications at its meeting at ICANN64. (See <a href="#">BAMC Recommendation on Reconsideration Request 18-10</a>)</p>	16 January 2019	<p>On 21 December 2018, the BAMC recommended that Request 18-10 be denied because ICANN Board did not fail to consider material information, rely on false or inaccurate information or violate applicable policies or procedures when it adopted the challenged Resolution. The BAMC also acknowledged that Request 18-10 reflects a difference in interpretation by the Requestor of the Resolution, and thus, the BAMC recommended that the Board reiterate that the Resolution was taken with the clear intention to grant the President and CEO the authority to progress the facilitation process between the ACTO member states and the Amazon corporation with the goal of helping the involved parties reach a mutually agreed solution, but in the event they are unable to do so, the Board will make a decision at ICANN 64 on the next steps regarding the potential delegation of .AMAZON and related top-level domains. The BAMC also recommended that the Board continue receiving updates on the facilitation process from the ICANN President and CEO in anticipation of revisiting the status of the .AMAZON applications at its meeting at ICANN64. (See <a href="#">BAMC Recommendation on Reconsideration Request 18-10</a>)</p> <p>On 16 January 2019, the Board adopted</p>

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			the BAMC's Recommendation. (See <a href="https://www.icann.org/resources/board-material/resolutions-2019-01-16-en#2.a">https://www.icann.org/resources/board-material/resolutions-2019-01-16-en#2.a</a> .)
8. Further considerations of Asia Green IT System Bilgisayar San. Ve Tic. Ltd. Sti. (AGIT) v. ICANN Independent Review Process (IRP) Final Declaration (.HALAL/.ISLAM)	<p>On 2 August 2018, the BAMC discussed the next steps that the Board has requested and requested ICANN org recommend possible options for next steps for consideration for the BAMC to make its recommendation to the Board.</p> <p>On 4 September 2018, the BAMC discussed IRP Final Declaration and decided that further discussions were needed and anticipated making a recommendation to the Board for its consideration by the ICANN 63 meeting. The BAMC directed ICANN org to prepare briefing documents regarding the options for the .HALAL and .ISLAM applications.</p> <p>On 26 September 2018, the BAMC reviewed the background on AGIT's applications for the .HALAL and .ISLAM and agreed to recommend that the Board direct the President and CEO to take all necessary steps that the pending applications for .HALAL and .ISLAM not proceed.</p>	3 October 2018	<p>On 26 September 2018, the BAMC reviewed the background on AGIT's applications for the .HALAL and .ISLAM and agreed to recommend that the Board direct the President and CEO to take all necessary steps that the pending applications for .HALAL and .ISLAM not proceed.</p> <p>On 3 October 2018, the Board adopted <a href="#">Resolution 2018.10.03.02</a>, directing the President and CEO, or his designee(s), that the pending application for .HALAL and the pending application for .ISLAM not proceed.</p>

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<p>9. Further considerations of Gulf Cooperation Council v. ICANN Independent Review Process (IRP) Final Declaration (.PERSIANGULF)</p>	<p>On 2 August 2018, the BAMC discussed the next steps that the Board has requested and requested ICANN org recommend possible options for next steps for consideration for the BAMC to make its recommendation to the Board.</p> <p>On 4 September 2018, the BAMC discussed IRP Final Declaration and decided that further discussions were needed and anticipated making a recommendation to the Board for its consideration by the ICANN 63 meeting. The BAMC directed ICANN org to prepare a briefing document regarding the options for the .PERSIANGULF application.</p> <p>On 26 September 2018, the BAMC reviewed the background on AGIT's for the .PERSIANGULF application and agreed to recommend that the Board direct the President and CEO to take all necessary steps that the application for .PERSIANGULF submitted in the current new gTLD round not proceed.</p>	<p>3 October 2018</p>	<p>On 26 September 2018, the BAMC reviewed the background on AGIT's for the .PERSIANGULF application and agreed to recommend that the Board direct the President and CEO to take all necessary steps that the application for .PERSIANGULF submitted in the current new gTLD round not proceed.</p> <p>On 3 October 2018, the Board adopted the portion of the IRP Panel's recommendation that the application for .PERSIANGULF submitted in the current new gTLD round not proceed and directing the President and CEO, or his designee(s), to take all steps necessary to implement this decision. (See <a href="https://www.icann.org/resources/board-material/resolutions-2018-10-03-en#1.a">https://www.icann.org/resources/board-material/resolutions-2018-10-03-en#1.a</a>.)</p>
<p>10. Succession Plan for the BAMC Chair</p>	<p>On 14 December 2018, the BAMC discussed the succession plan for the BAMC Chair. Thereafter, the BAMC recommended that the Board appoint León Sanchez as the Chair of the BAMC and retain Chris Disspain, the current BAMC Chair, as a member of the BAMC.</p>	<p>27 January 2019</p>	<p>On 18 January 2019, the Board Governance Committee approved a recommendation to the Board that Mr. Sanchez be appointed as the Chair of the BAMC and retain Mr. Disspain as a member of the BAMC.</p> <p>On 27 January 2019, the Board appointed Mr. Sanchez as the Chair of the BAMC and retained Mr. Disspain as a member of the BAMC, effectively immediately. (See <a href="https://www.icann.org/resources/board-material/resolutions-2019-01-27-en#2.e">https://www.icann.org/resources/board-material/resolutions-2019-01-27-en#2.e</a>)</p>

## Section II: In-Progress Activities

Item	Description of BAMC Activity	Target Completion Date	Status
<p>1. Reconsideration Request 16-3 (dotgay LLC/.GAY)</p>	<p>Request submitted by dotgay LLC seeking reconsideration of the Board Governance Committee’s denial of the Requestor’s previous reconsideration request, Request 15-21, which challenged the second CPE panel’s report finding that the Requestor did not prevail in CPE for the .GAY gTLD. While Request 16-3 was pending, the Board directed ICANN org to undertake the CPE Process Review. The BGC determined that the pending Reconsideration Requests regarding the CPE process, including Request 16-3, would be placed on hold until the CPE Process Review was completed. On 13 December 2017, FTI Consulting issued the CPE Process Review Reports. On 17 January 2018, after consideration of the Reports and the correspondence that were submitted in response to the Report, the BAMC recommended that the Board to acknowledge and accept the findings in the three reports; that as a result of the findings, there will be no overhaul or change to the CPE process in the current New gTLD round; that the CPE Process Review has been completed; and that the BAMC should move forward with consideration of the remaining reconsideration requests relating to the CPE process that were placed on hold pending completion of the CPE Process Review and to take FTI’s findings into consideration as part of the BAMC’s review. (See <a href="#">BAMC Minutes</a>.) On 15 March 2018, the Board adopted the BAMC’s recommendations. (See <a href="#">2018.03.15.08 through 2018.03.15.11</a>.) The BAMC invited the Requestor to conduct an oral presentation to the BAMC, but the Requestor denied the invitation and instead filed Reconsideration Request 18-4 challenging the Board’s action on 15 March 2018.</p> <p>On 25 January 2019, the BAMC concluded that the BGC did not rely on any false or inaccurate information nor did</p>	<p>TBD</p>	<p>On 25 January 2019, the BAMC concluded that the BGC did not rely on any false or inaccurate information nor did it disregard any material information that existed when it determined that that CPE Provider did not violate any established policies or procedure in conducting the Second CPE. The BAMC further determined that the Requestor does not identify any misapplication of policy or procedure by the CPE Provider that materially or adversely affected the Requestor. Accordingly, the BAMC recommended that the Board deny Request 16-3. (See <a href="#">BAMC Recommendation on Request 16-3</a>)</p> <p>Request 16-3 is pending consideration by the Board.</p>



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	<p>it disregard any material information that existed when it determined that that CPE Provider did not violate any established policies or procedure in conducting the Second CPE. The BAMC further determined that the Requestor does not identify any misapplication of policy or procedure by the CPE Provider that materially or adversely affected the Requestor. Accordingly, the BAMC recommended that the Board deny Request 16-3. (See <a href="#">BAMC Recommendation on Request 16-3</a>)</p> <p>Request 16-3 is pending consideration by the Board.</p>		
<p>2.Reconsideration Request 16-5 (DotMusic Limited/.MUSIC)</p>	<p>Request submitted by dotMusic Limited (Requestor) seeking reconsideration of the CPE panel’s report finding that the Requestor’s application for the .MUSIC gTLD did not prevail in CPE and ICANN’s acceptance of the CPE report. While Request 16-5 was pending, the Board directed ICANN org to undertake the CPE Process Review. The BGC determined that the pending Reconsideration Requests regarding the CPE process, including Request 16-5, would be placed on hold until the CPE Process Review was completed. On 13 December 2017, FTI Consulting issued the CPE Process Review Reports. On 17 January 2018, after consideration of the Reports and the correspondence that were submitted in response to the Report, the BAMC recommended that the Board to acknowledge and accept the findings in the three reports; that as a result of the findings, there will be no overhaul or change to the CPE process in the current New gTLD round; that the CPE Process Review has been completed; and that the BAMC should move forward with consideration of the remaining reconsideration requests relating to the CPE process that were placed on hold pending completion of the CPE Process Review and to take FTI's findings into consideration as part of the BAMC's review. (See <a href="#">BAMC Minutes</a>.) On 15 March 2018, the Board adopted the BAMC’s recommendations. (See <a href="#">2018.03.15.08</a></p>	<p>TBD</p>	<p>On 25 January 2019, the BAMC determined that the CPE Provider did not violate any established policies or procedure in conducting the CPE. The BAMC further finds that ICANN org did not violate any established policies, Bylaws, and Articles of Incorporation when it accepted the CPE Report. The BAMC also concluded that the Requestors do not identify any misapplication of policy or procedure by the CPE Provider or ICANN org that materially or adversely affected the Requestors. The BAMC found that the Requestors have not shown that the Board relied on any false or inaccurate information or disregarded any material information when it responded to the IRP Panel Declaration in the Despegar IRP (Despegar IRP Declaration). Accordingly, the BAMC recommends that the Board deny Request 16-5. (See <a href="#">BAMC Recommendation on Request 16-5</a>)</p> <p>Request 16-5 is pending consideration by the Board.</p>

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	<p><a href="#">through 2018.03.15.11.</a>) The BAMC then invited the Requestor to conduct an oral presentation to the BAMC, but the Requestor denied the invitation and instead filed Reconsideration Request 18-5 challenging the Board's action on 15 March 2018.</p> <p>On 25 January 2019, the BAMC determined that the CPE Provider did not violate any established policies or procedure in conducting the CPE. The BAMC further finds that ICANN org did not violate any established policies, Bylaws, and Articles of Incorporation when it accepted the CPE Report. The BAMC also concluded that the Requestors do not identify any misapplication of policy or procedure by the CPE Provider or ICANN org that materially or adversely affected the Requestors. The BAMC found that the Requestors have not shown that the Board relied on any false or inaccurate information or disregarded any material information when it responded to the IRP Panel Declaration in the Despegar IRP (Despegar IRP Declaration). Accordingly, the BAMC recommends that the Board deny Request 16-5. (See <a href="#">BAMC Recommendation on Request 16-5</a>)</p> <p>Request 16-5 is pending consideration by the Board.</p>		