

9 April 2018

ICANN
Board Accountability Mechanisms Committee (BAMC)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536, USA

By email: reconsideration@icann.org

Dear Members of the ICANN Board,

Re: Reconsideration Request 16-11 and new Reconsideration Request

We refer to our letters, sent by email, of 16 January 2018, 1 February 2018 and 22 February 2018 regarding Reconsideration Request 16-11 and to the ICANN Board Meeting of 15 March 2018.

In your meeting of 15 March 2018, you accepted the findings set forth in the CPE Process Review Reports and decided that no overhaul or change to the CPE process for this current round of the New gTLD Program is necessary. You took these decisions without considering Requesters' arguments against accepting the findings set forth in the CPE Process Review Reports.

Instead, you considered that Requesters will have the opportunity to address their arguments in support of Reconsideration Request 16-11. In this respect, on 19 March 2018, you invited us (i) to submit additional information relating to Reconsideration Request 16-11, and (ii) to make a telephonic oral presentation to the BAMC in support of Reconsideration Request 16-11.

However, the ICANN Board Resolutions 2018.03.15.08 – 2018.03.15.11 makes a meaningful review of main arguments expressed by Requesters impossible. Indeed, Requesters urged the ICANN Board to address Requesters' concerns and to hear Requesters *before* (not after) proceeding further in its consideration of the CPE Process Review. Unless the ICANN Board simply decides to cancel HTLD's application – which it ought to do for the reasons set out

in Reconsideration Request 16-11 – the ICANN Board must address the fatal flaws of the CPE and the CPE Process Review, as identified by Requesters in the framework of Reconsideration Request 16-11. These fatal flaws cannot be addressed if the ICANN Board were to uphold Resolutions 2018.03.15.08 – 2018.03.15.11, accepting the findings of the CPE Process Review and deciding that no overhaul or change to the CPE process is necessary. Unless the ICANN Board decides to cancel HTLD's application, upholding Resolutions 2018.03.15.08 – 2018.03.15.11 would preclude the ICANN Board from granting the remedies requested by Requesters in the framework of Reconsideration Request 16-11.

Thus, in accepting the BAMC's recommendations prior to addressing Requesters' arguments, while being prompted not to do so, the ICANN Board not only denied Requesters from a meaningful review; it showed that it was either careless and incompetent or prejudiced.

That is why Requesters request that – unless you finally decide to cancel HTLD's application – you reconsider the ICANN Board Resolutions 2018.03.15.08 – 2018.03.15.11 and you reverse the decisions in which you (i) accepted the findings set forth in the CPE Process Review Reports, (ii) concluded that no overhaul or change to the CPE process for this current round of the New gTLD Program is necessary, (iii) declared that the CPE Process Review has been completed.

For reasons of procedural economy, Requesters propose that this new request for reconsideration be handled together with Reconsideration Request 16-11 that was put on hold pending completion of the CPE Process Review.

Requesters reserve the right to explain the reasons for reconsideration more fully by submitting a reconsideration request form and during oral hearings.

This letter is sent without prejudice and reserving all rights.

Yours sincerely,


Flip Petillion