

DRAFT REGISTRY AGREEMENT REPLY COMMENT

March 20, 2013

Daniel Halloran, Esq.
Deputy General Counsel
Internet Corporation for Assigned
Names and Numbers ("ICANN")
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536 USA
comments-base-agreement-05feb13@icann.org

RE: Reply Comments in Support of Brian Winterfeldt's Public Comments on Necessary Changes to the Revised Registry Agreement including Additional Public Interest Commitments Specification

Dear Mr. Halloran:

Thank you for this initial opportunity to comment on the new gTLD Registry Agreement. Emirates Telecommunications Corporation (trading as Etisalat) writes to voice its strong support for the public comments submitted by Brian J. Winterfeldt, Esq. and Steptoe & Johnson LLP on February 26, 2013 on behalf of several first-time new gTLD applicants.¹

Etisalat is a statutory corporation established by Federal Law #1 of 1991. Headquartered in Abu Dhabi, United Arab Emirates (UAE), Etisalat has presence in Middle East, Asia and Africa and is the largest telecommunications operator in the Middle East and Africa. With a market value in excess of AED 80 billion (US\$21 billion) and annual revenues of approximately AED 32 billion (US\$9 billion), Etisalat is a successful and respected corporation both in the MENA region and worldwide.

As a first-time new gTLD applicant for the .etisalat and اتصالات, and a newcomer to the ICANN community, we wish to stress that this is the first opportunity we have received to comment on the new gTLD Registry Agreement. Along with many other applicants, Etisalat was not engaged in the registry operator space and due to a lack of promotion of the new gTLD program had no reason to be aware of the Guidebook and its draft Registry Agreement before they were approved by the ICANN Board in June 2011. Accordingly, our procurement department was not engaged in reviewing and/or commenting on the draft Guidebook or Registry Agreement prior to the launch of the new gTLD program. After now having the opportunity to review the current draft of the Registry Agreement, however, we agree with Mr. Winterfeldt that it contains many provisions that do not meet commercially reasonable standards for large, highly-regulated corporations such as Etisalat.

We are particularly in agreement with Mr. Winterfeldt's comments II.A. (reference: Article 2.11) and II.C. (reference: RA Article 2.15). Under the laws and regulations of the UAE, Etisalat is unable to release any confidential information and cannot provide ICANN with access to personal data; we therefore strongly

¹ Steptoe & Johnson LLP, New gTLD Registry Agreement Public Comments, available at <http://forum.icann.org/lists/comments-base-agreement-05feb13/msg00042.html>

support recommendations that audits be restricted to the Registry Service Provider (in this case, CentralNic). We also refer to point 7.14 of the Registry Agreement. Furthermore, if to point II.F (reference: RA Article 5.2) of Mr. Winterfeldt's comments, Etisalat believes it should have a degree of choice in deciding jurisdiction and prefers a neutral competent jurisdiction (i.e. England and Wales).

In addition to Mr. Winterfeldt's comments, we additionally agree with the Brand Registry Group's comments that BRAND applicants such as Etisalat have distinct needs from other applicants – in particular with regards to the Trademark Clearing House requirements – and we would request that ICANN recognizes this by allowing a "fast-track" or exemption procedure for .BRAND applicants and TLDs.

Etisalat also asserts that the 10-day payment window listed in RA Article 6.2 is inappropriate for large, multinational corporations for whom the purchase / sale of domain names is not an integral part of the business; likewise, ICANN's insistence on using US business days as a measure does not reflect the multinational nature of the applicant base or ICANN's own international ambitions. Etisalat therefore respectfully requests all invoice payment terms and notification of fee changes as per RA Article 6.4 be set at 30 calendar days or similar (at least for .BRAND applicants), and we also request that late payment penalty fees (RA Article 6.5) not be charged until 45 days post-due.

Accordingly, we strongly urge ICANN to take the steps necessary to revise the draft Registry Agreement and ameliorate the significant issues identified in the public comments that were submitted by Brian J. Winterfeldt and Steptoe & Johnson LLP for the benefit of all applicants. This will reduce the need for applicants to engage in the extended negotiation of the Registry Agreement, which would ultimately delay the implementation of many TLDs.

In addition, ICANN should consider creating a separate BRAND Registry Agreement specifically designed for .BRAND TLDs as suggested in comments filed by the Brand Registry Group and others that incorporates the suggestions made in Mr. Winterfeldt's comments and is better tailored to that subsection of TLDs so that those registry operators understand better their rights and obligations under the Registry Agreement.

We thank you in advance for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy Repp', written in a cursive style.

Amy Repp (CentralNic) for and on behalf of Etisalat (Emirates Telecommunications Corporation)
.etisalat and اتصالات. Primary Contact