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February 21, 2013

**Re: CTAG Public Comment on the Proposed ICANN Public Interest Commitments Specification**

To Whom It May Concern:

This letter is a response from the informal, Community TLD Applicant Group (CTAG) to ICANN's request for comments on the Revised New gTLD Registry Agreement, including the additional Public Interest Commitments Specification ("PIC Spec."). CTAG appreciates ICANN's recently posted Frequently Asked Questions (FAQ) on the PIC Spec. though it does raise additional implementation questions.

Revised New gTLD Registry Agreement

The CTAG has no comment at this time on the proposed amendments to the New gTLD Registry Agreement dated 2013-02-05.

Public Interest Commitments Specification

New gTLD community applicants have invested considerable time and resources in consultation with their communities and in the preparation and differentiation of their applications. The results of these consultations are explained in detail in community applicants' publicly available responses to Applicant Guidebook question #20. These responses were also part of an extended public comment period between June 13 and September 26, 2012.

Viewed as a whole, these responses represent an unprecedented commitment to the multi-stakeholder model that safeguards the role of communities in the governance of the domain name system. We believe that history will come to recognize many of these applications as 'flagship' models of the transparency and engagement-oriented approach that embodies the multi-stakeholder model and ensures that it justly serves as an example to others.

In this context the CTAG has carefully reviewed the PIC Spec. concept and expresses its support for the inclusion of contractual provisions that are intended to protect consumers and rights holders. These provisions may include, but are not limited to, registration restrictions, enhanced security measures to mitigate the potential for malicious activities and rights protection mechanisms.

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We support ICANN's Governmental Advisory Committee's (GAC) request in its Toronto Communiqué<sup>1</sup> that "Statements and commitments detailed in individual gTLD applications be transformed into binding contractual commitments, subject to compliance oversight by ICANN."

We would expect that PIC Specs. should elaborate on and correspond to existing commitments applicants made in their applications. However, ICANN's FAQ includes that commitments do not need to be limited to statements in the application. Given the significant effort community applicants expended in preparing their applications, CTAG members are concerned that in some cases applicants could attempt to use the PIC Spec. to amend their applications to more closely correspond to existing community applicants' responses to question #20.

We ask ICANN to carefully compare each PIC Spec. with its associated application prior to posting to ensure that any material changes are identified and handled as an application change request.

Furthermore, ICANN should reserve the right to identify any provision in a PIC Spec. as a material change requiring an application change request based on feedback obtained during public review.

It is expected that some applicants may elect to negotiate their Registry Agreement with ICANN. It is CTAG's position, should the PIC Spec. concept ultimately be accepted by the community and implemented, that the application change request process must be followed for any future amendment to a given PIC Spec.

By ensuring that PIC Specs. are not used to materially change applications, ICANN protects the integrity of the application process without causing further delays to the overall application round or discouraging applicants from using the PIC Spec. in the manner that it is intended.

We urge ICANN to recognize that the context of the timing of the PIC Spec., if not handled as described, is troubling for many community applicants with regard to the publication of question #20 and for the filing of community-based objections.

The introduction of the PIC Spec. at this point in the ICANN process and that it can be amended poses a significant issue for those preparing community objections, ICANN's GAC in considering issuing Advice and for the International Chamber of Commerce's panelists charged with reviewing and resolving these objections. The right for an applicant to amend its PIC Spec. makes it a moving target for applicants, the GAC and

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<sup>1</sup> <https://gacweb.icann.org/display/gacweb/Meeting+45%3A+Toronto%2C+Canada%2C+14-19+October+2012>

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the ICC panelists. How can the GAC and ICC panelists factor a PIC Spec. into their considerations if the PIC Spec. can change over time or might be removed by ICANN if the applicant's change request was denied?

We encourage ICANN to not only foster responsible commitments to the public interest, but to recognize those who are already leaders in making those commitments.

In closing, we reiterate that this letter represents the consensus opinion of CTAG members. Our comments are intended to inform this ICANN process in a constructive and meaningful way. We welcome the opportunity to participate.

Sincerely,

The Community TLD Applicant Group

## **CTAG Membership as of 6 Feb 2013**

1. ADAC - Allgemeiner Deutscher Automobil-Club e.V. (ADAC)
2. ARCHI, IMMO, SKI - STARTING DOT
3. BANK, INSURANCE - fTLD Registry Services, LLC
4. BARCELONA - Municipi de Barcelona
5. BERLIN - dotBERLIN GmbH & Co. KG
6. CORP, INC, LLC, LLP - Dot Registry LLC
7. CPA - American Institute of Certified Public Accountants
8. ECO - Big Room Inc.
9. GAL - Asociacion puntoGAL
10. GAY - dotgay llc
11. GMBH - TLDDOT GmbH
12. GREE - GREE, Inc.
13. HAMBURG - Hamburg Top-Level-Domain GmbH
14. HOTEL - HOTEL Top-Level-Domain S.a.r.l
15. KIDS - DotKids Foundation Limited
16. MED - HEXAP SAS
17. MED - DocCheck AG
18. MUSIC - DotMusic / CGR E-Commerce Ltd

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19. MUSIC – Far Further/.music LLC.
20. NGO, ONG - Public Interest Registry
21. OSAKA - Interlink Co., Ltd.
22. QUEBEC - PointQuebec Inc
23. RADIO - European Broadcasting Union (EBU)
24. SCOT - Dot Scot Registry Limited
25. SHOP - Commercial Connect LLC
26. SPORT - SportAccord
27. TATAR - Coordination Center of Regional Domain of Tatarstan Republic LLC
28. TENNIS - TENNIS AUSTRALIA LTD
29. THAI - Better Living Management Company Limited
30. TIROL - Punkt Tirol GmbH
31. VERSICHERUNG - dotversicherung-registry GmbH
32. WIEN - punkt.wien GmbH
33. 广东, - Xinhua News Agency Guangdong Branch 新华通讯社广东分社

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