14th May 2013

**Comment from the GSMA in relation to the New gTLD Board Committee’s Consideration of GAC Safeguard Advice**

The GSMA, the trade association representing the interests of mobile operators worldwide, is grateful for this opportunity to provide our input on how the New gTLD Board Committee should address GAC advice regarding safeguards applicable to broad categories of new gTLD strings.

Our comments relate specifically to Annex I, Category 2 – *Restricted Registration Policies: Exclusive Access* of the Beijing Communiqué. In this context, the GAC advice to ICANN is that for strings representing generic terms, exclusive registry access should serve a public interest goal. Moreover, the Communiqué identifies a non‐exhaustive list of strings that it considers to be generic terms, where the applicant is currently proposing to provide exclusive registry access. This list includes the terms .MOBILE and .PHONE.

The GSMA supports the GAC’s opinion in relation to such exclusive terms and strongly encourages the New gTLD Board Committee to adopt the GAC advice that exclusive registry access should not be granted unless a public interest goal would be served. In the case of .MOBILE in particular, we believe that allocation on a closed basis would be contrary to the public interest for the reasons set out below.

**1. Anti-Competitive Advantage**

With the expansion of the domain name system and delegation of .MOBILE as a new gTLD, the mobile wireless community naturally will expect mobile services websites to migrate to .MOBILE and .MOBILE domain names. This gTLD will be the first place these tech­savvy customers, obsessed with new technologies, will look for cutting-edge platforms and the "coolest" carriers. The vast majority of members in the mobile wireless community cannot sensibly be excluded from this valuable resource.

Allowing a single company to establish exclusive control over the .MOBILE gTLD will impact hundreds (if not thousands) of companies who are currently engaged in providing mobile products and services by limiting their ability to engage with consumers.

Equal access and non-discrimination are hallmarks of the ICANN system and of open and fair competition. If closed gTLDs are granted, a single competitor will receive the exclusive right to register all the domain names in the generic space itself. Should that occur, one commercial entity in the competitive telecommunications market would have the ability to discriminate by denying competitors the opportunity to register and use industry-relevant domain names within the .MOBILE gTLD. This practice will lead inevitably to the control of industry-relevant terms and automatically put competitors at a disadvantage by capturing direct navigation and online search requests.

More specifically, the exclusive control sought with respect to .MOBILE threatens to constrain the opportunity of mobile companies to offer a wide variety of services, including mobile applications, mobile advertising, mobile commerce, and other mobile­enabled products and services.

**2. Customer Confusion**

In a highly competitive marketplace, control by one entity of the .MOBILE gTLD, an industry term that is both ubiquitous and generic, will lead to significant consumer confusion and an erosion of consumer confidence. Consumers will be drawn to domain names in .MOBILE for their intuitive connection to interests and needs, and find websites in .MOBILE which appear to provide operator, service and competitive information. Yet, in fact, these consumers will be engaged with a single industry player only.

In such an environment, consumers will have little if any ability to quickly or accurately distinguish if this new gTLD is "open" and available to all competitors, or "closed" and restricted solely to the services one registry chooses to offer.

This situation is inherently confusing and potentially deceptive to consumers. Given the generic nature of .MOBILE, those seeking out apps, operators, and other mobile industry services and information will believe they are engaging with the full set of providers in the marketplace, and will make decisions and choices without the benefit of real alternatives.

Further, consumers may blame members of the mobile wireless community for their confusion and any deception that might occur - holding them responsible for not having websites in .MOBILE and not providing information easily searched and found within this TLD space.

Such a situation of will limit competition rather than foster it, and harm a rapidly growing, robust and highly competitive mobile wireless community.

**Conclusion**

The GSMA believes that the string .MOBILE, in particular, will be closely identified with our mobile wireless community, yet – if operated on a closed basis – would be unavailable to the vast majority of participants in the mobile services industry and members of the mobile wireless community. We believe strongly that this will harm competition in the mobile services marketplace and would not serve the public interest.

In conclusion, we urge the New gTLD Board Committee to either deny the closed gTLD applications for .MOBILE and .PHONE, or seek their modification to open gTLDs.

Yours respectfully,

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Director General

GSMA

**Spanning more than 220 countries, the GSMA unites nearly 800 of the world’s mobile operators with more than 230 companies in the broader mobile ecosystem, including handset makers, software companies, equipment providers and Internet companies, as well as organisations in industry sectors such as financial services, healthcare, media, transport and utilities.**