



May 14, 2013

Mr. Jamie Hedlund
Vice President, Stakeholder Engagement – North America
Internet Corporation for Assigned Names and Numbers
1101 New York Ave, NW
Suite 930
Washington, DC 20005
comments-gac-safeguard-advice-23apr13@icann.org

Re: USTelecom Comments on the Government Advisory Committee's Beijing Communiqué

Dear ICANN New gTLD Board Committee:

The United States Telecom Association (USTelecom) appreciates this opportunity to comment on the how the New gTLD Board Committee should address the Safeguards on New gTLDs identified in the GAC Beijing Communiqué issued on April 11, 2013.

Many of USTelecom's member companies provide the infrastructure and network services that make the Internet possible. These companies are also holders of substantial intellectual property rights, including trademarks/brand names that are recognized around the globe. USTelecom has provided comments to ICANN throughout the development and launch of the new gTLD program and we welcome the thoughtful and constructive advice from the GAC contained in the Beijing Communiqué. USTelecom understands that the New gTLD Board Committee recently developed "a Plan for responding to the Governmental Advisory Committee's advice on New gTLDs," and we respectfully request that no new gTLDs be approved for delegation until the Beijing Communiqué is fully addressed and implemented by ICANN.

"The GAC's key role is to provide advice to ICANN on issues of public policy, and especially when there may be an interaction between ICANN's activities or policies and national laws or international agreements."¹ The issues raised by the GAC in the Beijing Communiqué are neither new nor trivial and reflect widespread concerns with the new gTLD program that have been raised by many organizations including USTelecom since the inception of the new gTLD program. USTelecom urges ICANN to adopt the safeguards identified by the GAC, to require gTLD operators to agree to contractual provisions embodying the safeguards, and to implement meaningful contractual oversight requiring all gTLD operators to implement the safeguards. ICANN's failure to heed the advice of the GAC as set forth in the Beijing Communiqué would risk the launch and operation of new gTLDs in a manner more likely to

¹ See, ICANN GAC website, *About Us*, (available at: <https://gacweb.icann.org/display/gacweb/About+The+GAC>) (visited May 14, 2013).

cause significant harm to consumers and businesses. Such inaction by ICANN could also significantly erode governmental support for ICANN's multi-stakeholder model.

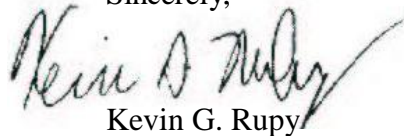
In previous ICANN public comment proceedings, USTelecom has expressed concerns regarding the fertile ground for bad actors that will likely result from ICANN's rollout of new gTLDs. The U.S. Federal Trade Commission has previously advised ICANN that the new gTLD program will result in a "dramatically increased opportunity for consumer fraud, distribution of malware, and proliferation of other malicious activity."² The safeguards identified by the GAC would represent a significant improvement in the responsible operation of new gTLDs. Although many new gTLD applicants have indicated through press releases and public comments that they intend to voluntarily implement similar safeguards, such statements provide little comfort to USTelecom and its member companies if the safeguards are not contractually required by ICANN. The safeguards identified by the GAC will provide consumers, law enforcement, and businesses with assurance that new gTLDs are more likely to be operated in a safe and lawful manner and that new gTLD operators will be required **contractually** to take specific actions to limit and/or stop unlawful use of new second-level domains.

Absent contractual implementation of the safeguards identified by the GAC, new gTLD operators are likely to implement widely varying policies for identifying and stopping unlawful use of second-level domain names within new gTLDs. In like manner to the environment created by current business practices of certain domain registrars and resellers, online scams, infringements, and crimes will likely migrate to certain new gTLDs that may be unwilling to take action to help stop such unlawful use of second-level domain names. In the interest of promoting the safe and lawful operation of all new gTLDs and the second-level domains issued by new gTLDs, it is imperative that ICANN adopt all of the safeguards identified by the GAC, require all gTLD operators to contractually agree to such safeguards, and implement contractual compliance monitoring in relation to the safeguards.

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USTelecom appreciates this opportunity to comment on how the New gTLD Board Committee should address the GAC Beijing Communiqué.

Sincerely,



Kevin G. Rupy
Senior Director, Law & Policy

² See, Letter from Jon Leibowitz, FTC, *et al.*, to Dr. Stephen D. Crocker, Chairman of the Board of Directors, ICANN, and Rod Beckstrom, President and CEO, ICANN, December 16, 2011 (available at: <http://www.icann.org/en/correspondence/ftc-to-beckstrom-crocker-16dec11-en.pdf>) (visited May 14, 2013).