SIIA REPLY COMMENTS ON GAC ADVICE

The Software and Information Industry Association ("SIIA") submits the following reply comments to ICANN regarding the Advice of the Governmental Accountability Committee ("GAC") relating to safeguards for new gTLDs ("GAC Advice").

SIIA is the U.S.-based trade association representing the software and information industries. It consists of over 700 member companies, ranging from start-ups to some of the largest and most recognizable companies in the world. Many SIIA member companies have facilities, operations, and/or employees in multiple countries, and most do business internationally. All of them are fundamentally reliant upon the stable, secure, reliable operation of the Internet in order to run their businesses successfully, and some even provide core software and services that support the Internet itself. In short, SIIA and its members have a significant interest in the effect of new gTLDs being introduced into the DNS.

SIIA's particular concern regards strings and applications that refer to, describe, or are likely to disproportionally impact rights owners in the software and information industries. These industries have experienced a long history of vulnerability to fraud and abuse, including copyright and trademark infringement, cybersquatting, and other abuses. Copyright and trademark infringement, fraud, deception, and similar abuses by some domain name registrants, registrars, resellers and other participants in the DNS ecosystem are an enormous and ongoing problem faced by SIIA member companies and their customers around the world in the software and information industries. It is reasonable to foresee that introducing hundreds if not thousands of new gTLDs on the Internet will multiply the problem exponentially – unless appropriate safeguards are implemented.

In its initial round comments, ICANN received numerous comments from a wide variety of diverse organizations located around the world voicing their strong support of ICANN accepting the GAC Advice. This support comes from the copyright community, as well as telecomm, financial services, online travel, and the trademark communities. With our reply comments submitted today, SIIA joins the growing chorus of organizations, including the Coalition for Online Accountability ("COA"), in urging ICANN to accept the GAC Advice.

By incorporating the GAC Advice into the new gTLD program, ICANN will increase the likelihood that the program will achieve the stated goals of expanding competition and enhancing consumer choice. Some new gTLD applicants argue that the GAC Advice is unclear and/or impossible to implement. To the extent the GAC Advice is unclear, we urge that such ambiguity not be used an excuse to reject the GAC Advice. Rather, we recommend that ICANN work with the GAC to clarify any such ambiguities, and to work with applicants and the larger community to properly incorporate important elements of the GAC Advice into the new gTLD process. In response to those who allege that the GAC Advice is impossible to implement, we

feel it necessary to point out that the new gTLD program is not being carried out for the benefit of new gTLD applicants or their investors. The fact that the GAC Advice may impose added costs or alter the expectations on these parties should not be a primary factor in ICANN's decision whether to accept the GAC Advice. There are many more interests at stake here that warrant greater consideration. Ultimately the calculus must come down to implementing the new gTLD program in a way that factors in the benefits and risks to the public as a whole – something the GAC is uniquely well situated to assess and articulate.

SIIA specifically commends the GAC's List of "Safeguards Applicable to all New gTLDs" contained on pages 7 and 8 of the GAC Beijing Communiqué, issued on April 11, 2013. Safeguards that require knowing the identity of registrants and prohibiting them from engaging in abusive uses of their registered domain names make simple sense. As does the provision of a means for the public to complaint about registrant abuses and the imposition of consequences when abuses do occur. These safeguards are simple common sense procedures that should significantly reduce the risk of abusive registrations in all gTLDs and that any responsible registry operator should be able to support and implement.

These safeguards are not unprecedented or unanticipated. SIIA endorsed similar safeguards a year ago, and urged ICANN, GAC, and all relevant new gTLD applicants to apply them. Similar processes are already included in the revised Registrar Accreditation Agreement. And, in anticipated that some of these safeguards would be adopted by ICANN and because they are common sense procedures, many new gTLD applicants have already incorporated them into their applications.

Safeguards are especially important for TLDs at higher risk of abuse that harms consumers or the rights of others. This includes applications targeted at sectors dependent on copyright protection --such as the software and information industries. As noted above, these sectors have consistently experienced high levels of online infringement. Consequently, meaningful steps to anticipate and manage these risks should be mandatory. Thus, even if not required for all new gTLDs, the GAC's six basic safeguards should be mandated for those listed as "sensitive strings" within the GAC Advice.

Thank you in advance for considering SIIA's comments.