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Via Electronic Mail

Mr. Jamie Hedlund
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comments-gac-safeguard-advice-23apr13@icann.org

Re: American Insurance Association Comments on the Government Advisory Committee’s (GAC) Beijing Communiqué

Dear Mr. Hedlund:

The American Insurance Association (AIA) appreciates the opportunity to provide input on how the New gTLD Board Committee should address the GAC advice contained in the Beijing Communiqué (Communiqué). AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write nearly \$100 billion in premiums each year. Our members offer a variety of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for businesses, homeowners’ insurance, workers compensation, product liability insurance, and medical malpractice coverage. AIA has provided comments to ICANN throughout the development and launch of the new gTLD program, and we take this opportunity to urge ICANN to fully implement the Safeguards identified by the GAC in the Communiqué.

“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 Essentially, the GAC serves as an international expert panel on national laws and regulations identifying potential issues that ICANN should consider. As such, we believe that the New gTLD Board Committee should take the GAC advice seriously, implement the Safeguards outlined in Annex I of the Communiqué, and require gTLD operators to agree contractually to implement the Safeguards. If the Board were to ignore the Safeguards identified by the Communiqué, in addition to creating an online environment that is less safe for consumers and businesses, such inaction by ICANN could significantly erode governmental support for ICANN’s multi-stakeholder model.

¹ See, <https://gacweb.icann.org/display/gacweb/About+The+GAC>

Sensitive Regulated Market Strings

The business of insurance is a highly regulated industry and, as noted in the Communiqué, .insurance, .insure, .carinsurance, and .autoinsurance are generic terms not associated with any particular brand, which invoke a “level of implied trust from consumers, and carry higher levels of risk associated with consumer harm.” AIA has consistently expressed concern with the new gTLD applications for .insurance, .insure, .carinsurance, and .autoinsurance due to the serious potential for consumer harm, consumer confusion, and anti-competitive concerns.

The U.S. Federal Trade Commission 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 In relation to the highly regulated insurance industry, the new gTLDs listed above raise significant risks of phishing, malicious data collection practices, and of entities unrelated to the business of insurance holding themselves out as legitimate regulated or licensed entities. To mitigate these risks, these new gTLD operators should be required to implement strong security and data protection measures, implement specific protocols for working with relevant regulatory bodies, and should be bound contractually to comply with all applicable laws and regulations. The Safeguards identified in the Communiqué are an important step to making sure that these sensitive generic strings are operated in a manner necessary for a highly regulated industry.

Although some of these new gTLD applicants have indicated in marketing materials that they intend to voluntarily implement similar safeguards, such statements provide little comfort to AIA and its member companies if the safeguards are not contractually required by ICANN. The safeguards identified in the Communiqué 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 these new gTLD operators will be required **contractually** to take specific actions to limit and/or stop unlawful use of new second-level domains.

If these new gTLD operators are not contractually required to implement the Safeguards identified by the GAC, they are likely to implement widely varying policies for identifying and stopping (or potentially ignoring) unlawful use of second-level domain names within these new gTLDs. Such inconsistency in relation to unlawful use of new domain names is likely to lead to a “race to the bottom” with online scams, infringements, and crimes migrating 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 these new gTLDs and the second-level domains issued by these new gTLDs, it is imperative that ICANN adopt all of the safeguards identified by the GAC, require these gTLD operators to contractually agree to such safeguards, and implement contractual compliance monitoring in relation to the safeguards.

Exclusive Registry Access

In addition, our members have continuously expressed significant concerns with awarding a generic term for exclusive use by a single entity operating in the highly regulated insurance industry. In Category 2 of the Communiqué’s safeguards, the GAC recognizes that strings representing generic terms, including .carinsurance and .autoinsurance, for exclusive registry access should serve a public interest goal. ICANN should fully adopt the Communiqué’s advice on this point and, when ICANN reviews such gTLD applications, ICANN should confirm that each application is specifically tailored to serve the public interest—not merely the applicant’s interests.

² <http://www.icann.org/en/correspondence/ftc-to-beckstrom-crocker-16dec11-en.pdf>.

For example, Allstate Fire and Casualty Insurance Company's (Allstate) applications for .carinsurance and .autoinsurance state that Allstate believes that the .carinsurance and .autoinsurance gTLDs "will provide a single, trusted, ecosystem experience for the millions of potential consumers searching for insurance-related information on line." The applications further state that "By acting as the foundation for this trusted ecosystem, all domain name registrants in the .carinsurance gTLD, as described herein, initially consist only of Allstate and Allstate's qualified subsidiaries and affiliates, will be able to share in the benefits of this collective resource. (emphasis added)."³ These statements indicate the desire of a single entity in the industry to become the sole source of content from these generic TLD strings for the entire insurance industry. Moreover, it is clear from the applications that the applicant does not intend to obtain and operate these gTLDs in a manner that serves the public interest, but instead to gain exclusive control of a key industry term for a TLD to the exclusion of the other companies (and trade groups) in the community.

Allstate, in its March 7th public comment letter regarding "closed generic" gTLD applications, noted that eventually the strings would be open to Allstate's network of independent contractor agents and that these agents may sell insurance products offered by companies not affiliated with Allstate. However, the possibility that Allstate may decide in the future to open these registries does not reflect an intention to operate the registries in compliance with the public interest standard of the Communiqué. By the time the "eventual" possibility comes around, the terms will be so closely associated with Allstate and its affiliates that consumers may not understand that these agents sell products for other companies. Furthermore, the requirements for operating in this space will have been outlined by Allstate and Allstate only. No other company has had the opportunity to make certain that its security standards are accurately represented in this space. In addition, the government agencies that regulate the business of auto and car insurance will also be excluded from using these TLD strings.

The public interest is served by preserving a competitive market that allows for meaningful consumer choice. Accordingly, granting exclusive registry access would have a significant anti-competitive effect on the highly regulated insurance industry and would inevitably mislead and confuse consumers into thinking one entity represents the entire insurance industry, has established measures that have set them apart from (or is safer than) the rest of the industry, or has somehow obtained governmental license or endorsement that it is superior to other members of the larger insurance community.

Therefore, we urge ICANN to conduct a meaningful analysis of the gTLD applications identified in Category 2 of the GAC safeguards, including .autoinsurance and .carinsurance, and prohibit awarding any generic insurance string application seeking exclusive registry access.

AIA thanks ICANN again for the opportunity to provide the ICANN Board with these comments and hope they have been helpful and will lead to ICANN's implementation of the recommended safeguards in the Communiqué. We would be happy to provide ICANN with any other information needed on the above issues and concerns and respectfully recommend that ICANN take the GAC advice under advisement.

Sincerely,



Angela Gleason
Associate Counsel

³ See, <http://gtdresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1239?t:ac=1239> and <http://gtdresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1238?t:ac=1238>