

April 16th, 2014

Re: Support for the Proposal for the Use of Mandatory Policy Advisory Boards for Regulated Industry Sector and Consumer-Trust-Sensitive New gTLD Strings: The Case of the NABP and .Pharmacy

Dear ICANN:

For over ten years, our company, PharmacyChecker.com, has published verification and drug price comparison information to educate consumers about safe options for obtaining prescription medication online. Access to our website's (www.pharmacychecker.com) data is free.

We are writing to express support for the "Proposal for the Use of Mandatory Policy Advisory Boards for Regulated Industry Sector and Consumer-Trust-Sensitive New gTLD Strings" (the "PAB Proposal") published for public comment on March 21, 2014: <http://www.icann.org/en/news/public-comment/pab-new-gtld-strings-21mar14-en.htm>.

On March 5th, 2013, we published a comment to ICANN opposing the application of the National Association of Boards of Pharmacy (NABP) for the registry ".Pharmacy" due to NABP's use of and reliance on corporate funding from pharmaceutical companies as well as its history of anticompetitive and protectionist policies against online pharmacy innovation, which is detrimental to consumers who can't afford prescribed medication [See <https://gtldcomment.icann.org/comments-feedback/applicationcomment/commentdetails/12117>]. Many others opposed NABP's application on similar grounds [See <http://pharmacycheckerblog.com/opposition-grows-to-pharma-funded-application-by-nabp-for-pharmacy-to-icann>].

ICANN must not ignore the serious dangers associated with a regulated industry sector gTLD run by an association (even a regulatory one) funded by corporations and governed by executives of companies with a direct financial interest in the policies of that registry.

The Policy Advisory Board (PAB) model applied to the ".Pharmacy" registry would bring balance to the policies adopted as requirements for its future use by qualified registrants – and to allow for their evolution as this space evolves. Clearly, the PAB would do the same for other registries associated with regulated industries and therefore **we strongly support the PAB model as articulated in the PAB Proposal**.

A PAB will permit a broader range of relevant parties to participate in the setting and enforcement of registry eligibility policies. In addition to regulators and self-regulatory groups, registries will also be informed by the views of independent experts, academics, consumer advocates, and other qualified

parties. It can also encompass the views of regulated sector participants to assure that when a registry is operated by a leading member of an industry or profession it does not adopt policies that are anti-competitive. In the context of “.Pharmacy”, such experts could include representatives from the World Health Organization, Doctors Without Borders, Oxfam, Knowledge Ecology International and Public Citizen. Other participants would include longstanding companies and experts dedicated to the space of online pharmacy. The bottom line is that consumers and reputable industry participants need to be represented.

As part of a PAB for .Pharmacy and other registries that relate to *essential human needs* (i.e. medicine), a representative from the human rights community would be critical. The Government Advisory Committee has clearly affirmed that human rights laws and norms should be considered as safeguards on new gTLDs. Please take note of Annex I of the Beijing communique: GAC advises ICANN that safeguards should “be implemented in a manner that is fully respectful of human rights and fundamental freedoms as enshrined in international and, as appropriate, regional declarations, conventions, treaties, and other legal instruments – including, but not limited to, the UN Universal Declaration of Human Rights.”

In the case of the gTLD .Pharmacy, NABP’s governance and rules will affect access to medicines. There are global norms that must be applied to global gTLDs that affect access to medicine. Please recognize the World Health Organization’s position on this matter: “Access to essential medicines as part of the right to the highest attainable standard of health (“the right to health”) is well-founded in international law” [See http://www.who.int/medicines/areas/human_rights/en/]. As a corollary, the UN Human Rights Council recently adopted a resolution calling for human rights to be protected on the Internet: Resolution L13 : “The Promotion, Protection and Enjoyment of Human Rights on the Internet – adopted by consensus on by the Human Rights Council on Thursday, July 6, 2012.” [See <https://geneva.usmission.gov/2012/07/05/internet-resolution/>].

For the reasons stated above, an expert from the human rights community must have some input into the .Pharmacy application’s governance. The PAB would afford this opportunity.

The PAB was designed by many within the ICANN community to address deficiencies in the gTLD application process as it applies to regulated industries. A gTLD sponsored by pharmaceutical companies and governed by U.S. pharmacy regulators is clearly open to abuse and, thus, consumers – Internet Users – need representation in line with ICANN’s bottom-up, multistakeholder consensus policymaking process.

Thank you for considering our views in this important matter of consumer protection and access to safe and affordable medication.

Sincerely,

Gabriel Levitt
Vice President
PharmacyChecker.com, LLC