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Via Electronic Delivery

Mr. Fadi Chehade
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, California 90094-2536

Re: Public Comments Regarding "Closed Generic" TLD Applications

Dear Mr. Chehade:

We appreciate the opportunity to comment on the issue of closed generic TLD applications. However, from the outset, we must express our concern that some applicants are attempting to circumvent the existing gTLD program by pressuring ICANN to change its policy by prohibiting closed generic TLD applications.

The new gTLD program was not developed overnight. The program began in 2007, and through thoughtful comments, meetings, and revisions, ICANN developed the application process described in the gTLD Guidebook. See <http://newgtlds.icann.org/en/applicants/agb>. The gTLD Guidebook is meant to provide predictability and direction to brands, while fostering diversity, encouraging competition, and enhancing the utility of the DNS. *Id.* We encourage ICANN to stay true to the AGB as written, which permits closed generic TLD applications.

First we would like to clarify that the Allstate TLDs will not necessarily be classified as closed generic TLDs that will prevent all of Allstate's competitors and other third parties from having any access to the .AutoInsurance and .CarInsurance namespaces. Rather, the Allstate TLDs will be safe, restricted namespaces that will eventually be open to Allstate's over 9,000 independent contractor agents after various necessary phases of startup. Allstate agents are not Allstate employees and a significant number of them sell insurance products offered by companies not affiliated with Allstate.

The gTLD Guidebook permits closed generic TLD applications. Section 2.2 of the gTLD Guidebook sets forth the review process, including a technical operations review, a financial review, and a registry services review. *Id.* Nowhere does the gTLD Guidebook prohibit closed generic TLDs. Any shift in ICANN policy at such a late date creates uncertainty, violates traditional principles of fairness, and increases costs for existing applicants.

ICANN's supplemental publications expressly recognize that closed generic TLD applications are permitted. ICANN created a series of educational videos to explain the new gTLD program. In one video, ICANN provides examples of possible new gTLDs, including <.luxury>, <.culture>, <.futbol>, <.private>, and <.literacy>. See Overview: Get Ready for the Next Big Thing (available at <http://newgtlds.icann.org/en/announcements-and-media/video/overview-en>). While these new gTLDs are on-screen, the woman says:

Soon you can create and manage a top level domain of your own choosing. Why would you want to? First, if your organization runs its own TLD, your organization sets the rules. You can make your TLD as *inclusive* or *exclusive* as you want. For example, you can sell second level domain registrations at a price you choose. **Or you could decide not to sell them at all.** (Emphasis added)

As the video states, one of the reasons an applicant would apply for a generic top level domain is to run a closed registry. To the extent that ICANN changed its policy under pressure from certain contracted parties whose only desire is to sell second level domain names in as many registries as possible (not to protect the public interest), such change would constitute a false and deceptive message to applicants, in violation of ICANN's policy of fostering diversity, encouraging competition, and enhancing the utility of the DNS.

Furthermore, such new policy changes would come at a significant expense to applicants. Many of the public comments already submitted assert that a policy change could include a refund to applicants. But a refund of the application fee does not begin to make an applicant whole. In addition to the application fee, applicants have already incurred significant additional costs in the form of consultancy fees, legal fees, and time spent. Such costs can never be recouped with a mere refund of the application fee. More importantly, though, is the fact that a prohibition on closed generic TLD applications will increase costs to brands and consumers by forcing everyone to pay fees to even more open generic TLD registries for defensive registrations in an effort to stave off cybersquatters. The purpose of the gTLD program should not be merely to make registrars richer. The principles of equity and fairness should lead ICANN to keep the existing policy in place and permit closed generic TLD applications to proceed toward delegation.

For these reasons, we believe that ICANN should permit closed generic TLD applications to proceed toward delegation. Permitting such applications is the only action that ICANN can take to ensure a fair and level playing field, maintain the legitimacy of the gTLD Guidebook and its corresponding instructional materials, ensure fairness and justice, and protect consumers from certain contracted parties who wish to increase costs for everyone in order to enrich themselves.

Respectfully submitted,



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