

## Position Paper:

# Comments on GAC advice on Safeguards on new TLDs – May 2013

### **Executive summary**

The undersigned companies of the Brand Registry Group – *in formation* (BRG) make the following comments in this paper:

- a) a business process that is certain is essential;
- b) the lateness of the GAC safeguards proposal introduces uncertainty;
- c) there is a trade-off between certainty and the creation of trust;
- d) the ICANN Board needs to judge whether the GAC safeguards advice, being so late in the process, will achieve its objective, given this trade-off.

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### **Background**

On 11 April 2013, the Governmental Advisory Committee (GAC) issued its [Beijing Communiqué](#) in which it provided advice on new TLDs. The Board New gTLD Committee has directed staff to solicit [comment](#) by May 14 on how it should address one element of the advice: safeguards applicable to broad categories of new TLDs.

The GAC safeguards fall into three sets.

There are six safeguards which the GAC wishes to apply to ALL new TLDs: WHOIS verification and checks, mitigating abuse activity, security checks, documentation, making and handling complaints, and consequences.

There are ADDITIONAL safeguards for TLDs that the GAC categorises as “Consumer Protection, sensitive strings and regulated markets” (category 1). The objective of the GAC is that as these TLDs “invoke a level of implied trust from consumers” they carry “higher levels of risk associated with consumer harm”.

There are ADDITIONAL safeguards for TLDs that the GAC categorises as “Restricted Registration policies”, notably generics (category 2). The objective of the GAC for these TLDs is that they should serve a “public interest” goal.

### **The BRG and our ethos of trust**

The BRG's vision is “To create Internet environments built on trust.” This means the following. Applicants for brand registries are organisations that have been built on

trust. These organisations now wish to make innovative offers of that existing trusted business that will enhance the global digital economy.

The BRG therefore recognises and instinctively supports the GAC objectives, behind the safeguards, namely, the avoidance of consumer harm and the pursuit of the public interest.

### ***Trust comes in different packages***

Besides the necessity to establish trust on-line, trust in the certainty of the business process is essential. The BRG and GAC are aware of the long gestation period of the current round of new TLDs, and the current success we have had in embedding consumer safeguards in new TLDs.

BRG members rely for their global operations on a certainty of business process. They work in a world where to progress it is necessary to agree on the rules of the moment and then act upon them. The BRG is therefore concerned that the safeguards proposal introduces uncertainty into a business process.

We are concerned that the safeguards proposal is now so late in the process, and potentially so broad as the TLDs list is non-exhaustive, that there is a risk of slaying the better on the altar of the best. In other words, this late pursuit of the best possible protections, may undermine, existing models of trust. We therefore propose that the GAC's recent advice should not hold up the new TLD programme and its delegation of applications, but could provide guidance for ICANN's post-delegation compliance undertakings and ongoing policy work.

### ***An uncomfortable trade-off***

We provide the following additional thoughts to the ICANN Board.

There is a trade-off between the certainty of the TLD application process and the establishment of a new and trusted Internet. An increasingly uncertain TLD process adds cost and is both inefficient and destabilising.

The Board needs to judge whether all or parts of the GAC safeguards advice, being so late in the process, will actually achieve the objective of consumer protection and the pursuit of the public interest, given this trade-off.

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### ***About Us***

Around one third of all applications in ICANN's 2012-2013 expansion of the domain name space were submitted by brand owners for a name that matches their brand, a product or service. These applicants share a common interest in that they have unique plans to run registries in furtherance of a business purpose other than offering registry services to the general public. A number of these registries have come together to establish the Brand Registry Group. It will be an independent membership organisation. It will seek to represent the members' common interests and will be run by professionals, paid for from membership fees.

This position paper is submitted on behalf of the founding member companies: Alibaba Group, BBVA, CEB, Gucci, HSBC, KPMG International, LEGO Juris A/S, Microsoft, Philips, Reckitt Benckiser, Richemont, and Yahoo!