

GAC Advice Response Form for Applicants



The Governmental Advisory Committee (GAC) has issued further advice to the ICANN Board of Directors regarding New gTLD applications. Please see Section IV of the [GAC Los Angeles Communiqué](#) for the full list of advice.

Respondents should use this form to ensure their responses are appropriately tracked and routed to the ICANN Board for its consideration. Please complete this form and submit it as an attachment to the ICANN Customer Service Center via your [CSC Portal](#) with the Subject, “[Application ID] Response to Los Angeles GAC Advice” (for example “1-111-11111 Response to Los Angeles GAC Advice”). All GAC Advice Responses to the GAC Los Angeles Communiqué must be received no later than 23:59:59 UTC on 17 November 2014.

Please note: This form will be publicly posted. Please do not include in this form any information that you do not want posted.

Respondent:

Applicant Name	TLDDOT GmbH
Application ID	1-1273-63351
Applied for TLD (string)	GMBH

Response:

The Governments of the countries Austria, Germany, Liechtenstein and Switzerland and The Association of German Chambers of Commerce and Industry (DIHK) have repeatedly formulated their concerns about the delegation of the .GMBH gTLD to a Registry operator that is not liable and incorporated in the concerned jurisdiction and does not fulfill GAC Advice requirements as this will likely cause severe damages to the image and value of one of Europe’s most trusted corporate identifiers.

- <http://newgtlds.icann.org/en/program-status/correspondence/vogel-middeldorf-to-chehade-09jul13-en.pdf>
- <http://newgtlds.icann.org/en/program-status/correspondence/vogel-middeldorf-to-chehade-25aug14-en.pdf>
- <https://www.icann.org/en/system/files/correspondence/metzger-to-chehade-23sep14-en.pdf>
- <http://newgtlds.icann.org/en/program-status/correspondence/ortmeyer-wernicke-to-chehade-08sep14-en.pdf>

ICANN has not responded to the advice both the GAC and the Governments letters repeatedly provided, ignoring the countries’ sovereign rights on the operation of the corporate identifier GMBH and its counterpart on the Internet, the new top-level domain .GMBH.

Furthermore it is questionable whether the Community-Priority-Evaluation (CPE) service provider (Economist Intelligence Unit, EIU) was capable to oversee this highly sensitive and political matter in the four German speaking countries. We anticipate the GAC advice regarding corporate identifiers and the treatment of communities was addressed with the EIU. No interaction took place between the EIU and the respective governments.

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The consequence of this was that several corporate identifier gTLD applications (.GMBH, .INC, .LLP, .LLC) which all had exclusive and comprehensive Governmental and community support did not pass the CPE. These applications are now scheduled to go to an auction with the potential outcome that the gTLDs will not be operated in-line with applicable laws and the GAC Advice.

The CPE determination for .GMBH has been published at <http://www.icann.org/sites/default/files/tlds/gmbh/gmbh-cpe-1-1273-63351-en.pdf>. The expectation of the Governments, stakeholders and the communities concerned was the applicants would pass the CPE and can be operated in accordance with applicable legislation.

Our complaint regards the aforesaid inconsistent CPE determinations. It is a fact is that TLDDOT GmbH failed in the CPE and a Reconsideration Request regarding its .GMBH application (<https://www.icann.org/resources/pages/14-31-2014-06-25-en>), too. But it is also a fact that the EIU has made several and severe mistakes in the CPE that lead to the failure of our .GMBH application in the CPE.

What we ask ICANN and what Governments asked ICANN is to offer a mechanism which community applicants may use to appeal incorrect CPE determinations. By this the balance of sovereign rights of countries in their corporate identifiers and interests of other parties including ICANN's accountability can be restored.

Dirk Krischenowski
CEO of TLDDOT GmbH (.GMBH applicant that fulfils GAC Early Warning and GAC Advice requirements)
31 Oct 2014