

GAC Advice Response Form for Applicants



The Governmental Advisory Committee (GAC) has issued advice to the ICANN Board of Directors regarding New gTLD applications. Please see Section IV, Annex I, and Annex II of the [GAC Beijing Communiqué](#) for the full list of advice on individual strings, categories of strings, and strings that may warrant further GAC consideration.

Respondents should use this form to ensure their responses are appropriately tracked and routed to the ICANN Board for their consideration. 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 GAC Advice” (for example “1-111-11111 Response to GAC Advice”). All GAC Advice Responses must be received no later than 23:59:59 UTC on 10-May-2013.

Respondent:

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

Response:

TLDDOT GmbH welcomes and supports the GAC Advice as published on April 11, 2013, since the requested safeguards from GAC have always been fundamental principles for the TLDDOT GmbH and have therefore been incorporated in the application accordingly. The GAC Advice is designed in the Applicant Guidebook as a process step that rejects gTLD applications which conflict with national laws and will privilege those gTLDs that recognize and incorporate community and public interests.

We welcome and support the position of the GAC Advice as published on April 11, 2013, that:

“The GAC advises the Board that all safeguards highlighted in this document as well as any other safeguard requested by the ICANN Board and/or implemented by the new gTLD registry and registrars 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.
- respect all substantive and procedural laws under the applicable jurisdictions.
- be operated in an open manner consistent with general principles of openness and non-discrimination.

We welcome and support the GAC Advice as published on April 11, 2013, section IV “GAC Advice to the ICANN Board”, i.e. “Community Support for Applications”:

“The GAC advises the Board: i. that in those cases where a community, which is clearly impacted by a set of new gTLD applications in contention, has expressed a collective and clear opinion on

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those applications, such opinion should be duly taken into account, together with all other relevant information."

*** We serve the Interests of the Community and the Public ***

Our .GMBH application for the string .GMBH is the only community-based application in a contention set with four other standard applications. The natural .GMBH Community are the multiple stakeholders in Germany, Austria, Liechtenstein and Switzerland involved in the legal regulation and registration of companies based on the corporate identifier GMBH as well as the companies operating under the legal form of a GMBH themselves. As applicant we are ourselves a member of this Community.

We have been successfully working since 2008 on building a long-lasting relationship to the various stakeholders of the GMBH Community including

1. Governmental organizations and authorities in Austria, Germany, Liechtenstein and Switzerland
2. Chambers of Commerce and Industry in Austria, Germany, Liechtenstein and Switzerland
3. Commercial associations in Austria, Germany, Liechtenstein and Switzerland representing over 100.000 companies with the legal form of a GmbH;
4. Numerous companies with the legal form of a GmbH.

GMBH Community members have expressed a collective and clear supporting opinion on our application by supporting documents.

We have consulted with all relevant public and private entities that make up the GMBH Community in Austria, Germany and Switzerland.

*** We commit to the GAC Advice Safeguards ***

TLDDOT GmbH, the applicant for the .GMBH Top-Level-Domain (gTLD) will implement as already stated in the application the following safeguards in a manner that (i) 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, (ii) respects all substantive and procedural laws under the applicable jurisdictions, and (iii) the gTLD be operated in an open manner consistent with general principles of openness and non-discrimination. The safeguards will be subject to contractual oversight.

The Safeguards are:

1. WHOIS verification and checks - TLDDOT GmbH will conduct checks on a statistically significant basis to identify registrations in its gTLD with deliberately false, inaccurate or incomplete WHOIS data at least twice a year. Registry operators will weight the sample towards registrars with the highest percentages of deliberately false, inaccurate or incomplete records in the previous checks. TLDDOT GmbH will notify the relevant registrar of any inaccurate or

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incomplete records identified during the checks, triggering the registrar's obligation to solicit accurate and complete information from the registrant.

2. Mitigating abusive activity - TLDDOT GmbH will ensure that terms of use for registrants include prohibitions against the distribution of malware, operation of botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law.

3. Security checks - While respecting privacy and confidentiality, TLDDOT GmbH will periodically conduct a technical analysis to assess whether domains in its gTLD are being used to perpetrate security threats, such as pharming, phishing, malware, and botnets. If TLDDOT GmbH identifies security risks that pose an actual risk of harm, TLDDOT GmbH will notify the relevant registrar and, if the registrar does not take immediate action, suspend the domain name until the matter is resolved.

4. Documentation - TLDDOT GmbH will maintain statistical reports that provide the number of inaccurate WHOIS records or security threats identified and actions taken as a result of its periodic WHOIS and security checks. TLDDOT GmbH will maintain these reports for the agreed contracted period and provide them to ICANN upon request in connection with contractual obligations.

5. Making and Handling Complaints - TLDDOT GmbH will ensure that there is a mechanism for making complaints to TLDDOT GmbH that the WHOIS information is inaccurate or that the domain name registration is being used to facilitate or promote malware, operation of botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law.

6. Consequences - Consistent with applicable law and any related procedures, TLDDOT GmbH shall ensure that there are real and immediate consequences for the demonstrated provision of false WHOIS information and violations of the requirement that the domain name should not be used in breach of applicable law; these consequences should include suspension of the domain name.

In addition TLDDOT GmbH stated in the application to implement further safeguards to address specific risks of the .GMBH gTLD and to bring registry policies in line with arrangements in place offline.

TLDDOT assessed that the .GMBH gTLD will require further targeted safeguards, to address specific risks, and to bring registry policies in line with arrangements in place offline. Therefore TLDDOT incorporated in the application several further safeguards:

7. At the time of registration, the registry operator must verify and validate the registrants' authorisations, charters, licenses and/or other related credentials for participation in that sector.

8. In case of doubt with regard to the authenticity of licenses or credentials, Registry Operators should consult with relevant national supervisory authorities, or their equivalents.

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9. The registry operator must conduct periodic post--registration checks to ensure registrants' validity and compliance with the above requirements in order to ensure they continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.

In particular, TLDDOT GmbH is committed to verify registrants' validity and compliance with the above requirements on an annual basis.

TLDDOT GmbH commits to operate the gTLD in a way that is consistent with applicable laws, as this string is linked to a regulated and professional sector. The string is likely to invoke a level of implied trust from consumers, and carry higher levels of risk associated with consumer harm. The following safeguards will apply to the gTLD this string:

1. TLDDOT GmbH will include in its acceptable use policy that registrants comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. TLDDOT GmbH will require registrars at the time of registration to notify registrants of this requirement.
3. TLDDOT GmbH will require that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law and recognized industry standards.
4. TLDDOT GmbH has established a working relationship with the relevant regulatory, or industry self-regulatory, bodies, including the development of a strategy to mitigate as much as possible the risks of fraudulent, and other illegal, activities.
5. Registrants will be required by TLDDOT GmbH to notify to them a single point of contact which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.

Regarding the restriction in the registration policies TLDDOT GmbH will ensure that the registration restrictions are appropriate for the types of risks associated with the gTLD. TLDDOT GmbH will administer access in a transparent way that does not give an undue preference to any registrars or registrants, including itself, and shall not subject registrars or registrants to an undue disadvantage.

*** TLDDOT GmbH is the only Applicant that fulfills the Requirements ***

TLDDOT GmbH is the only applicant for the .GMBH TLD that has established a verifiable and public working relationship with the relevant regulatory bodies of the applicable jurisdictions where the legal framework for the gTLD corresponds with the corporate identifier .GMBH. To our knowledge none of the other applicants has even started to build such relationship.

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TLDDOT GmbH is one of two applicants for .GMBH that can operate .GMBH in consistence with applicable laws of Austria, Germany, Liechtenstein and Switzerland and the European Union and which is able and willing to respect all substantive and procedural laws under the applicable jurisdictions. Applicants outside the aforementioned countries are under no circumstances able to fulfill these requirements.

TLDDOT GmbH has implemented the GAC Early Warning requirements and the GAC Advice safeguards already in the submitted application, has its entire application supported by a community-based approach and exchanged with the relevant stakeholders on all important issues.

We therefore ask the GAC and ICANN Board to dismiss all other .GMBH applications as foreseen in the procedures of the Applicant Guidebook for such cases.