# 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 Communique 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 | The Medical Registry Limited |
| Application ID | 1-2026-56939 |
| Applied for TLD (string) | .doctor |

**Response:**

The Medical Registry Limited
345 East 81st Street, Suite 5L,
New York NY 10028 US.

Date: 10 May 2013

Application ID: 1-2026-56939

Via ICANN Customer Service Portal

GAC ADVICE RESPONSE FOR .DOCTOR

Dear Sir/Madam,

Applicant Comments on the Beijing GAC Communique

This letter is submitted in response to the Governmental Advisory Committee (GAC) Communique issued on 11 April 2013 (the "Beijing Advice") and focusses specifically on the publication of the "Safeguards Applicable to all New gTLD's" (the "Safeguards") and those that apply to our application for .doctor under Category 1: Consumer Protection, Sensitive Strings, and Regulated Markets, as contained in Annex 1 of the Beijing Advice.

In short, we are both disappointed and frustrated that the GAC has chosen to step beyond its agreed remit and issue the broad, generic Beijing Advice covering all new gTLD applicants. Module 3 of the Applicant Guidebook, states that "the process for GAC Advice for New gTLDs is

intended to address applications that are identified by governments to be problematic, e.g., that potentially violate national law or raise sensitivities."

We believe the provision of the Beijing Advice covering all new gTLD applications constitutes a material change to the scope and purpose of the Advice, which was to have been provided. We see no reason why the Beijing Advice was not confined to targeting specific applications as originally (and reasonably) expected.

We, and no doubt others, are understandably aggrieved at the continued shifting landscape, one which is quite outside the conditions under which our application was submitted.
That being the case, we are faced with a choice between a lesser of two evils. The new gTLD program has been subject to repeated and substantial delays and the present issue threatens to add to such by at least a further 3-6 months were the Beijing Advice to be rejected in whole or in part.

Conversely, to avoid delay, we are being asked to agree to provisions in the Registry Agreement ("RA") that appear at first instance to be both ill-defined and over broad. The RA itself now rather resembles a contract of adhesion – we are in the territory of take it or leave it.
Faced with such, we have no option but to agree to the Safeguards in part as further described below.

However, we would flag that such agreement and response is made under severe duress.
Safeguards

Provided below is further detail on the particular Safeguards and our anticipated adherence or otherwise.

1. WHOIS verification and checks

Any requests from the GAC for additional Safeguards regarding WHOIS should be addressed by the Board through the work being undertaken by the Expert Working Group on gTLD Directory Services. As this work will ultimately feed into a Board-initiated GNSO Policy Development Process (PDP) to serve as a foundation for the GNSO's creation of new consensus policies and requisite contract changes, this is the more appropriate mechanism for addressing the GAC on this issue. We do not consider it appropriate that the Board would acquiesce to this GAC request while fully aware that policy work on this very sensitive issue is currently underway and that the outcome will be enforced on successful new gTLD applicants through the Registry Agreement.

We would also note that the rationale underpinning this Safeguard is already adequately addressed by the WHOIS Accuracy Program Specification appended to the new Registrar Accreditation Agreement (RAA) that all Registrars are required to execute prior to selling any new gTLDs. Such requires detailed verification and checking of WHOIS data, making the Safeguard redundant. On this basis, we do not propose to agree to the application of such in relation to our TLD.

2. Mitigating abusive activity

We agree to the application of such to our TLD.

3. Security Checks

We cannot agree to this Safeguard. Put bluntly, Registry Operators are not, and never have been charged with policing the internet, nor should they be.

In addition, Registry Operators do not have the expertise to carry out the requested “technical analysis”. Indeed, only a handful of expert companies globally might have such expertise and the cost of employing such would be prohibitive and again beyond the bounds by which our gTLD Application was submitted.

Quite apart from the above, the Safeguard contains sufficient elasticity of wording as to be rendered meaningless.

4. Documentation

In view of the comments above concerning Safeguards 1 and 3, this Safeguard is redundant.

5. Making and Handling Complaints

As a Registry Operator, we are already required under the terms of the RA to maintain a point of contact as stipulated in order to receive complaints of the type indicated.
We are willing to agree to the application of such to our TLD on the basis that it is acknowledged that the bar of complaint “handling” is met by our referring such to the appropriate authorities or third party arbiters.

6. Consequences

We agree to the application of such to our TLD.

Category 1: Consumer Protection, Sensitive Strings, and Regulated Markets:

The premise of our .doctor application is to provide an industry-specific TLD run by The Medical Registry (MR) and designed for the long-term benefit of the global medical community. The target market for this TLD is medical professions and related medical companies. A prospective registrant will be required to provide evidence of their credentials as a legitimate medical professional or company in order to register a domain name.

The TLD .doctor has been listed in the GAC’s Advice under the categories of Health and Fitness; and Professional Services.

We acknowledge the legitimacy of the GAC’s advice as it pertains to our TLD and we believe that in developing our application we were cognisant of the need for safeguards that we believe are consistent with those identified by the GAC. Accordingly,

We agree to the proposed Category 1 Safeguards outlined in the GAC Advice with some caveats. We therefore provide the following responses:

1. Acceptable Use Policy

We agree to include in our acceptable use policy wording to the effect of "… registrants comply with all applicable laws, including those that relate to privacy, data collection, disclosure of data and consumer protection."

We have reservations about agreeing to the remainder of this Safeguard as we believe it reaches beyond the scope of what, we, as a registry operator primarily targeting registrants from the medical industry would be able to do with regard to the operation of the TLD. Therefore we do not agree to include in our acceptable use policy that registrants comply with applicable law relating to: fair lending, debt collection, organic farming, and financial disclosures.

2. Notification of the Acceptable Use Policy

We agree to require registrars at the time of registration to notify registrants of this requirement.

3. Health and financial data

We agree to require our registrants who collect and maintain sensitive health data to implement reasonable and appropriate security measures commensurate with the offering of those services in accordance with applicable law and recognised industry standards.

4. Mitigating risks of fraudulent, and other illegal, activities

We agree to establish working relationship with the relevant medical regulatory and industry bodies and to work collaboratively to develop a strategy to mitigate as much as possible the risks of fraudulent and other illegal activities.

5. Single point of contact

We agree to require the registrant, at the time of registration, to nominate a point of contact that must be kept-up-to-date, to ensure the registrant can be contacted regarding notification of complaints or reports of registration abuse. We also agree that the registrant be required to provide contact details of their relevant medical regulatory or industry body in their place of business.

Registry Agreement

In light of the above, the key question to be considered is how the Safeguards might be incorporated into the RA. At all costs, we must avoid any further delay, including another round of public comments on the inclusion of new text in the RA.

We have considered at length how to achieve such and would respectfully submit that consideration be given to the utilisation of the Public Interest Specification at Appendix 11 of the RA.

Whilst to do so risks the potential for frivolous third party complaints regarding such, it would afford us the opportunity to agree to those Safeguards we are able to and which are not covered elsewhere, whilst avoiding a further round of public comments and the attendant delay.

If ICANN were so minded, we would be willing to consider wording of the following order:

"Registry Operator will adhere to the following "Safeguards Applicable to all New gTLD's" as defined by the Governmental Advisory Committee in Annex 1 to its communique dated 11 April 2013:

- Safeguard 2
- Safeguard 5
- Safeguard 6

Having explained above that Safeguards 1 and 4 are redundant, such would mean that adherence only to Safeguard 3 is not agreed on the basis of what we consider to be eminently reasonable arguments above.

With regard to Safeguards applicable to Category 1 we would be willing to consider wording of the following order:

"Registry Operator will adhere to the following Safeguards applicable to Category 1 as defined by the Governmental Advisory Committee in Annex 1 of its communique dated 11 April 2013:

- Safeguard 1 (as amended)
- Safeguard 2
- Safeguard 3
- Safeguard 4
- Safeguard 5

e trust that the above middle ground will be acceptable to you and once again respectfully request that paramount in this instance be the avoidance of any further delay.

Yours faithfully

Sloan Gaon
For and on behalf of
The Medical Registry Ltd
Date:10th May 2013

Simon Delzoppo
For and on behalf of
The Medical Registry Ltd
Date:10th May 2013