

1-961-6109 Response to GAC Advice

Respondent:

Applicant Name	Excellent First Limited
Application ID	1-961-6109
Applied for TLD (String)	慈善(charity)

Response:

Summary

The purpose of the proposed gTLD 慈善(.charity) is to create a trusted and intuitive space for Chinese-speaking Internet users to carry out and interact with charity activities in their own language.

Evidenced by the numerous mechanisms to minimise harm to consumers, respond in real time to allegations of abuse such as phishing and pharming, and the applicant's Public Interest Commitment, the applicant welcomes the GAC's advice, and is confident that it will meet or exceed the GAC's requirements in every aspect. As an example, the requirement for data accuracy in the 慈善(.charity) gTLD will be 90% + accuracy and registrars with less than 80% WHOIS data accuracy will be in breach of agreement. The data verification requirements anticipate and exceed those set out in the recently published 2013 RAA.

Standards of data accuracy and abuse monitoring in 慈善(.charity) will far exceed that seen in the current gTLD environment. Senior officers from the applicant, and the registry backend provider have been closely involved in running CNNIC for many years, and have successfully road tested many of the processes set out in the application. The applicant also recently strengthened its leadership team through the recruitment of a Head of Policy and Compliance who held a senior position with ICANN Contractual Compliance for many years.

Quality and consumer protection will be at the heart of the entire domain name lifecycle, including:

- Registrant eligibility criteria, to ensure affiliation with relevant charities.
- Validation of WHOIS data prior to registration; validation of registrant email in grace period.
- Post-registration data quality checking.
- Real time abuse mitigation processes in collaboration with law enforcement, with appeal mechanisms to safeguard registrant privacy and fundamental rights.
- Full compliance with ICANN consensus policies eg on third party rights protection.
- Consequences of failure to meet requirements are fully set out and include cancellation or suspension of domain names; breach of registrar accreditation agreement.

Background – The 慈善(.charity) gTLD, the charitable sector and Internet environment in Chinese language communities

The 慈善(.charity) gTLD will create a trusted space for the charity sector in Chinese speaking communities. The sector is emergent, and despite substantial corporate social responsibility donations by large corporations (see www.e-chinalife.com/about-us/commonweal.html), the

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formation of stand-alone charities has been, to date, comparatively rare. For example the ONE charity has recently become established in China.

The 慈善(.charity) gTLD is one of 130+ of new gTLD applications for internationalised domain names. By creating a namespace in the mother-tongue of its target users, the 慈善(.charity) gTLD will benefit Chinese speaking Internet users who will be able to read, understand and memorise domain names in the 慈善(.charity) gTLD more easily than equivalent Latin-script domain names. The applicant has the benefit of being led by one of the pioneers of internationalised domain names, James Seng.

There are numerous safeguards to ensure that the 慈善(.charity) gTLD will be trustworthy: the price will be higher than other “open” style gTLDs, and eligibility criteria will ensure that registrants that hold themselves out as charities through their 慈善(.charity) domain names will be entitled to do so. The application for 慈善(.charity) gTLD is conservative in its projections of domain name registration volumes (just 9,800 by year 3) reflecting the minority interest, and selective nature of this domain.

The 慈善(.charity) gTLD is targeted at Chinese speaking Internet users primarily in China. We anticipate there are also Chinese speaking Internet users in Hong Kong, Macao, Taiwan, Singapore and Malaysia that may have a use for 慈善(.charity).

With growing wealth in China and the emergence of Chinese multi-national companies, Chinese citizens and corporates are more willing to contribute to charitable good causes. Unfortunately, regulation of charities is still in its infancy and hence, many of the developed-country assumptions about the environment do not apply.

Therefore, the applicant sees the 慈善(.charity) gTLD as one element of many which will help the development and coordination of the emerging charity sector in China.

Building relationships with key stakeholders in an emerging sector

The charity sector in China is not as long-established as in developed countries. Not only are charities themselves a relatively new phenomenon, but the country also lacks the legal and regulatory protection of charitable institutions, and civil society has not yet developed interlocutors such as the NGOs and volunteer representatives which are part of the charitable ecosystem in the West.

The applicant of the 慈善(.charity) gTLD sees its role as helping to support the emerging charitable sector. To this end, it is already reaching out to newly-established Chinese charities, and building relationships with them. As NGOs, regulators and other relevant organisations emerge, the applicant will proactively work to build dialogue with them. This will ensure that the policies of the 慈善(.charity) gTLD will be sensitive and responsive to the needs of all stakeholders in the relevant markets.

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Detailed response to GAC safeguard advice

Overarching principles

1. Registrant rights and due process

The application for 慈善(.charity) contains numerous anti-abuse and data accuracy mechanisms, but in every case, registrant rights are also safeguarded. For example, the real-time abuse monitoring system which enables phishing sites to be taken down with immediate effect provide an appeal mechanism for registrants, and for the restoration of the domain name once the harm has been mitigated (see application paragraph 28.3.2.5).

2. Respect all substantive and procedural laws under the applicable jurisdictions

Balancing numerous applicable laws is challenging in all Internet environments. The target market of 慈善(.charity) will be Chinese speaking Internet users in China but as with any Internet issue, the user-base will not be limited by jurisdiction or geography. Therefore, in keeping with the applicant's Public Interest Commitment, and vision of the 慈善(.charity) as a trusted space for the charitable sector, the applicant views the balancing of applicable laws as an ongoing challenge. This will require careful consultation with relevant stakeholders prior to launch, and throughout the life-time of the 慈善(.charity) gTLD.

Specific mechanisms for handling applicable law issues include:

- The applicant will evaluate the effectiveness of registration eligibility criteria, and the criteria to trigger emergency suspension of domain names in response to requests from law enforcement. Policies will need to balance the legal requirements of different jurisdictions which are relevant to the charity sector, at a minimum those of the target markets (China, Hong Kong, Macao, Taiwan, Singapore, Malaysia).
- As described in the Applicant's PIC, eligibility criteria for the 慈善(.charity) gTLD will be subject to 60 days' public comment, during which governments are invited to highlight additional elements arising from applicable laws in their jurisdiction. Additional requirements so highlighted will be implemented within 180 days.

3. Be operated in an open manner consistent with general principles of openness and non-discrimination

Adherence to this principle is vital to building and maintaining trust in the 慈善(.charity) gTLD. The 慈善(.charity) gTLD will operate in an open and non-discriminatory manner, as befits its vision of creating a trusted and intuitive space for Chinese-speaking communities to interact with charity activities.

Safeguards applicable to all new gTLDs

1. WHOIS verification and checks

The applicant is confident that it meets or exceeds the GAC requirements for WHOIS verification and checks.

The relevant paragraphs of the applicant's application are:

- Paragraph 26 – WHOIS system requirements.

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- Paragraph 28.2.3 – WHOIS accuracy requirement.

As well as the standard registrant’s warranty for data accuracy, the application sets out numerous additional steps to ensure data accuracy, which **exceed** the GAC requirements on WHOIS:

- Data checking at least twice a year. The 慈善(.charity) gTLD will exceed this requirement. Random inspections on WHOIS information will be done on a **daily basis**, through the sending of verification emails. Failure by the registrant to respond will result in the suspension or cancellation of the domain name.
- Annual evaluation processes for registrars (see “Compliance Requirement for Registrars, application paragraph 28.2.3) will require greater than 90% accuracy levels. Those with below 90% accuracy levels will receive a warning; those with 80% or lower will be in breach of their registrar agreements. The accuracy requirements compare favourably to the currently low levels of WHOIS accuracy under .com and other gTLDs, which according to a study commissioned by ICANN in 2009 show that only 23% of records are fully accurate.

Over and above the GAC requirements and the proposed 2013 RAA, the 慈善(.charity) gTLD will require validation of registrant data **prior** to registration. Incomplete WHOIS information at the point of registration will result in the application being rejected. Email addresses will be verified by registrars within a 5 day grace period. A lack of confirmation from the email will result in the suspension or cancellation of the domain name without refund. Signed copies of the registration agreement (by the registrant) will be required. For individuals, a copy of passport or photo ID is required, and a business certificate for organisations.

Further, the applicant will require its registry services provider to carry out random inspections of WHOIS information on a **daily basis**. It will send out emails to the registered email address to ask for verification. Inaccurate data will be reported to the applicant. The applicant will then require the registrant to update its records within 10 working days. Failure to do so may result in the domain name being suspended or cancelled.

The applicant’s staff, through their experience with CNNIC, have track records of successfully running similar verification processes under .cn.

2. Mitigating abuse activity

The applicant is confident that it meets or exceeds the GAC requirements for WHOIS verification and checks. As stated in paragraph 28 of the application, “The applicant will not tolerate any abuse of the domain names under its management”.

Contract terms for the 慈善(.charity) gTLD prohibit malware, botnets, phishing, and pharming, and give the registry the right to deny, cancel or transfer any registration or transaction or place any domain names on suspension, takedown or similar status to prevent or mitigate domain name abuse (see application paragraph 28.1.2).

Rights protection mechanisms required by the ICANN processes are fully provided for in the 慈善(.charity) gTLD, for example PDDRP, RDRP, URS, UDRP, Sunrise and Trademark Claims.

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3. Security checks

As described in the applicant's PIC, the applicant will carry out on-going compliance monitoring including:

- Routine zone file scanning designed to detect possible registration abuse. The scanning includes Whois accuracy, suspicious activity or other anomalies.
- A 24/7 DNS resolution activity monitoring service. Any change of DNS server or IP addresses or abnormal activities in the DNS resolution will trigger an alert in the monitoring system and will lead to further investigation in accordance with the applicant's anti-abuse policies.

In addition, paragraph 28 of the application forms part of the PIC submitted by the applicant.

As described in 28.1.3 of the application, the applicant will establish the following anti-abuse mechanisms:

- A single point of contact at the 慈善(.charity) gTLD registry for the filing and handling of abuse complaints.
- A team to respond to reports of malicious conduct.
- All accredited registrars and resellers will be required to set up a liaison with the registry for abuse mitigation.

Paragraph 28.2 of the application sets out numerous anti-abuse mechanisms including Reserved lists; Access control, ie security processes to be followed on domain name transfers which are designed to prevent hijacking of domain names; Policy on orphan glue records to prevent malicious conduct through abuse of glue records.

Paragraph 28.3 of the application sets out Abuse Mitigation Mechanisms, both for registration abuse (28.3.1) and use abuse (28.3.2).

The registration abuse mechanism will work on a complaint basis (reactive). On receipt of a complaint, the applicant will place the domain on registry lock, and if satisfied that the grounds of complaint are made out, will immediately take down the domain name. Notice of breach will be sent to the registrar and registrant.

The use abuse mitigation mechanism is set out in paragraph 28.3.2. It will involve close cooperation with law enforcement agencies, and result in suspension of domain names associated with harmful activity. Appeal mechanisms will safeguard the fundamental rights of registrants from potential harm, and there is provision for the restoration of domain names within 4 hours of remediation.

Further, paragraph 28.3.4 sets out anti-abuse collaboration with partners, which can be summarised as:

- Partnership with ICANN – prompt implementation of consensus policies.

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- Partnership with law enforcement and security providers – to identify and take down domain name abuse incidents, subject to appropriate checks and balances to safeguard registrant fundamental rights.

4. Documentation

The applicant is happy to confirm that it will maintain full reports on WHOIS accuracy, security threats and actions taken as a result of periodic checks for the full term of the contracted period and provide the reports to ICANN on request in connection with contractual obligations.

5. Making and handling complaints

The mechanisms are set out in the applicant's response to question 3 above.

6. Consequences

The answers above set out the obligations, processes for reactive and proactive monitoring and the real consequences to both registrars and registrants who are found to be in breach.

The mechanisms described in the application and PIC and summarised above will require substantial resources, and paragraph 28.3.4 of the application sets out appropriate resource plans. Resources include a team of 20 staff at the registry service provider dedicated to reviewing WHOIS accuracy. Senior staff at the applicant and registry services provider have real world experience of implementing similar, proactive data validation and abuse mitigation within the .cn domain.

Consumer protection, sensitive strings and regulated markets

It is emphasised that the regulatory environment for charities within South East Asia in general and China in particular is still emergent. The GAC advice appears to assume that, for example, the charity sector in China is subject to similar or the same regulatory environment as in developed countries. This is not the case.

Nevertheless, the applicant's intention is that the 慈善(.charity) gTLD will fully meet regulatory requirements applicable in the target markets, and, further, will exemplify best practice in industry self-regulation. The application demonstrates the applicant's commitment to data quality and abuse mitigation throughout the domain name lifecycle.

1. Acceptable use policy

The applicant confirms that its acceptable use policy will require registrants to comply with all applicable laws including those that relate to privacy, data collection, consumer protection and disclosure of data (others in the GAC list do not appear to apply to the 慈善(.charity) gTLD). At least two jurisdictions within the target market, Taiwan and Hong Kong, have extensive privacy laws which are modelled on EU Data Protection laws. These will form the basis of the acceptable use policy .

2. Informing registrants of contractual requirements

The applicant confirms that registrars will be required to inform registrants of all relevant contractual requirements at the time of registration.

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3. Appropriate security measures for sensitive personal data

The applicant confirms that it will require registrants who collect or process sensitive personal data to take appropriate security measures to safeguard individuals' privacy in compliance with applicable laws.

4. Working relationship with relevant regulatory or self-regulatory bodies

As explained above, the regulatory environment for charities in China and the target market for the 慈善(.charity) gTLD is emergent. Therefore we see the 慈善(.charity) gTLD as a mechanism to foster the development of the charitable sector in China and other target markets. The 慈善(.charity) gTLD will establish dialogue with relevant stakeholders eg charities in China, law enforcement, the domain name industry, volunteers or NGOs as the charitable sector develops and matures.

5. Registrant single point of contact for abuse reporting

The applicant confirms that it will require a registrant single point of contact for abuse reporting.

As a practical point, the applicant believes that the rigorous WHOIS data checking and validation throughout the lifecycle of domain names within the 慈善(.charity) gTLD will provide far better, and tested, responsiveness from registrants than exists in established gTLDs.

6. Registrant eligibility verification

The applicant confirms that it will verify and validate each registration application against eligibility criteria to ensure that registrants that hold themselves out as charities through their 慈善(.charity) domain names are authorised or entitled to do so.

7. Consult with supervisory authorities

The applicant confirms that it will consult with relevant national supervisory authorities or their equivalent in case of doubt with regard to the authenticity of licenses or credentials.

8. Periodic post registration checks

As described in the applicant's application and PIC, the applicant will carry out on-going compliance monitoring to detect potential registration or use abuse. In addition, the applicant confirms it will conduct period post-registration checks to ensure registrants' compliance with the eligibility criteria and applicable laws and regulations.

Conclusion

The applicant's objective in founding the 慈善(.charity) gTLD is to provide a trusted and intuitive space for Chinese-speakers to interact with charity. This is an emerging sector within China and other target markets, and therefore the applicant lacks the professional interlocutors that may exist in developed countries.

Building close relationships with relevant stakeholders will ensure that the 慈善(.charity) gTLD crafts policies and monitors implementation in a way that meets and anticipates the needs of customers and other stakeholders in this emerging market.

The track records of senior staff at the 慈善(.charity) gTLD through CNNIC and ICANN demonstrate that the measures proposed in the application are achievable, and that the applicant will not hesitate to make tough decisions – such as the cancellation of a domain name, or the termination of registrar accreditation – where circumstances require.

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Through the implementation of eligibility criteria for registrants, comprehensive measures to ensure and maintain data quality, and mitigation of harmful registration or use, the applicant is confident that the 慈善(.charity) gTLD meets or exceeds the GAC's safeguard advice in every respect. The applicant is committed to working with all stakeholders, including the GAC, to bring the vision of the 慈善(.charity) gTLD to fruition, as a trusted resource for Chinese-speaking online communities.