

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	T V SUNDRAM IYENGAR & SONS LIMITED
Application ID	1-1862-71358
Applied for TLD (string)	.TVS

Response:

T V SUNDRAM IYENGAR & SONS LIMITED (hereinafter TVS) welcomes the opportunity to respond to the communiqué from ICANN's Government Advisory Committee dated 18-April-2013. TVS is a multi-billion dollar business conglomerate with operations in six countries. TVS is currently recognized as one of India's most trusted brands based upon its rich history dating back to 1911 when the company was first founded by Shri. T V Sundaram Iyengar. TVS supports the principles regarding enhanced safeguards to protect consumers. However, TVS respectfully submits that the GAC may not fully appreciate the nuances of its application and would ask that it consider the following points in its ongoing deliberations.

In connection with the issue of singular and plural versions of the same string as a TLD, the GAC has advised the Board to "[r]econsider its decision to allow singular and plural versions of the same strings." TVS acknowledges the GAC's concern regarding the potential for confusion in connection with the co-existence of the singular and plural of the same word with a common meaning, e.g. .PET and .PETS where both top-level domain names related domesticated animals. However, TVS is concerned that an attempt by the GAC to impose a one size fits all litmus test without a proper legal analysis based on established international law could lead to unintended consequences.

TVS is currently defending its application for a .TVS brand centric gTLD based upon an objection filed by VeriSign in which the principle argument is that .TVS is the plural of .TV, the country-code top level domain (ccTLD) for Tuvalu. While TVS is confident that it will ultimately prevail in the frivolous challenge by VeriSign based upon the criteria set forth in the Applicant Guidebook as well as established international trademark law, it does not currently appear from the wording of the GAC communiqué that they fully appreciate these legal subtleties in their proposed black and white litmus test.

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As set forth its response to the VeriSign objection, TVS undertakes a detailed analysis of the relevant legal standards to establish that there is no probability of a likelihood of confusion in the mind of the average reasonable Internet user. This multi-factor test accounts for differences in appearance, sound, commercial impression, channels of trade, goods/services, as well as non-existence of any actual confusion. TVS also found it important to note the following facts to the panel. Specifically, that TVS was founded:

- 85 years before the entry of the .TV ccTLD into the root
- 64 years before recognition of Tuvalu; and
- 58 years before the creation of the Internet.

TVS is willing to make its formal response to VeriSign's objection available to the GAC upon request.

TVS would also respectfully request that the GAC reconsider its decision to designate the .TVS string as an intellectual property sensitive string. In light of its own extensive international intellectual property portfolio, TVS supports the GAC's efforts to responsibly mitigate the potential use of new gTLDs in connection with the offering of pirated or counterfeited goods/services. However, a cursory reading of the .TVS application should have revealed that it was not a multi-media centric TLD along the likes of .MOVIE, .MUSIC, .VIDEO, MEDIA, etc., but instead a brand centric gTLD primarily focused within the automotive industry.

The GAC's decision to designate .TVS as an intellectual property sensitive string, while not including .PICTURES, .PIC, .STREAM and .COUNTRY (specifically targeted to country music) is also difficult to reconcile. While the GAC has designated these lists as non-exhaustive, TVS is hopefully that the GAC will re-evaluate these lists and make the appropriate changes in connection with any further advice that it provides.