

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	Merchant Law Group LLP
Application ID	1-875-17602
Applied for TLD (string)	.art

Response:

MLG response for .ART

Application number: 1-875-17602 for Merchant Law Group LLP (MLG)

We are responding to the Beijing Governmental Advisory Committee (GAC) Communique as an applicant for the .ART new gTLD.

As stated in our application for the .ART new gTLD, MLG envisions the .ART new gTLD as providing a distinct online presence for all individuals, groups, businesses, organizations, and entities that engage in the provision of services, products, or information related to art.

We support the efforts of the GAC but have concerns about the recent Beijing GAC Communique. We believe elements of the Beijing GAC Communique require further clarity or amendment and request that the ICANN Board provide applicants with additional guidance before requiring or requesting any applicant to alter their applications or business models.

Specifically, we request further clarity and guidance on the following issues:

1. To what extent and when will the terms and requirements of the Beijing GAC Communique be required of applicants with strings listed in “Category 1” of Annex 1?
2. It can be argued that strings listed in “Category 1” of Annex 1, which includes the .ART string, are essentially converted from gTLDs into sTLDs or another form of TLD with restrictions and requirements beyond those stipulated in the Applicant Guidebook. Respectfully, MLG submitted a gTLD application. Accordingly, please clarify:
 - a) To what extent will ICANN adopt and then enforce this conversion?

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- b) Who will determine the final list of TLDs that fall under “Category 1” of Annex 1 since the Beijing GAC Communique states that the list is non-exhaustive?
- c) When will the final list of TLDs that fall under “Category 1” of Annex 1 be released?
- d) What are the methods of appeal for applicants with strings that fall under “Category 1” of Annex 1?
3. The proposed terms and requirements for strings that fall under “Category 1” of Annex 1 may require MLG to modify its business model and application as currently written for the .ART new gTLD. Please clarify and provide guidance on the mechanisms ICANN will provide for making changes to applications, business models, and commitments if the terms and requirements for strings that fall under “Category 1” of Annex 1 are approved by ICANN?
- a) The change request process in its current form is not an appropriate mechanism for making any application alterations that could be required by the Beijing GAC Communique. We believe changes made through this process will slow the approval of applications with strings that fall under “Category 1” of Annex 1 and this will jeopardize the integrity of the prioritization drawing system.
- b) Any solution ICANN devises for application alterations must be fair, equitable, and not jeopardize the order conferred by the prioritization drawing system and should not penalize applicants whose TLDs may be subject to additional requirements by way of the Beijing GAC Communique.
- c) We believe that applicants with strings that fall under “Category 1” of Annex 1 should not be required to undertake any material changes to their business models or applications before the ICANN Board has confirmed the parameters of the Beijing GAC Communique requirements.
4. We request clarification of question 6 of Annex II. Does this question imply the GAC may at some stage require applicants to submit Public Interest Commitments Specifications?

We respectfully request that the ICANN Board address the aforementioned issues and clarify them for the benefit of all applicants. MLG is prepared to proceed with its application under any circumstances but we encourage the ICANN Board to sparingly adopt recommendations from the Beijing GAC Communique. We believe it is essential to understand the extent to which the Beijing GAC Communique terms and requirements will be implemented or enforced prior to making any changes to our application.