

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	dotBERLIN GmbH & Co. KG
Application ID	1-902-9993
Applied for TLD (string)	BERLIN

Response:

dotBERLIN GmbH & Co. KG, the applicant for the .BERLIN top-level domain, welcomes and supports the GAC Advice as published on April 11, 2013, as the GAC Advice has been established in the Applicant Guidebook as an instrument to reject gTLD applications which e.g. violate national laws and / or do not recognize and incorporate public interests such as consumer protection.

dotBERLIN GmbH & Co. KG welcomes and supports 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.”

*** Community-based application for .BERLIN by dotBERLIN GmbH & Co. KG ***

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”:

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“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 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 application for the string .BERLIN is a community-based application. The .BERLIN Community are multiple stakeholders from the City of Berlin. We have been successfully working since 2005 on building a long-lasting relationship to the various stakeholders of the respective community including

1. Governmental organizations and authorities
2. Commercial and non-commercial organisations
3. Citizens

The 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 community.

*** General principles of operations for .BERLIN by dotBERLIN GmbH & Co. KG ***

dotBERLIN GmbH & Co. KG would like to state, that:

1. We will respect human rights and fundamental freedoms

We fully support human rights and fundamental freedoms of mankind, this includes but is not limited to the UN declaration of rights . In this respect we would like to emphasize two principles of the UN declaration of rights:

- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind.
- Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

2. We will respect national laws

We require our registrars and registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), disclosure of data, and financial disclosures.”

3. We will operate the TLD in an open manner consistent with general principles of openness and non-discrimination

The fundamental goals of the Introduction of New gTLDs are:

- The new gTLD program will create a means for prospective registry operators to apply for new gTLDs, and create new options for consumers in the market.

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- To foster diversity, encourage competition, and enhance the utility of the DNS.
- ICANN expects a diverse set of applications for new gTLDs, including IDNs, creating significant potential for new uses and benefit to Internet users across the globe.

We fully support these goals with the underlying principles of openness and non-discrimination and which will lead to greater choice and diversity for consumers based on competition among registries.

*** Detailed commitments by dotBERLIN GmbH & Co. KG for .BERLIN based on General Safeguards ***

dotBERLIN GmbH & Co. KG 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 in detail:

1. WHOIS verification and checks - dotBERLIN GmbH & Co. KG 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 weigh the sample towards registrars with the highest percentages of deliberately false, inaccurate or incomplete records in the previous checks. dotBERLIN GmbH & Co. KG will notify the relevant registrar of any inaccurate or incomplete records identified during the checks, triggering the registrar's obligation to solicit accurate and complete information from the registrant.
2. Mitigating abusive activity - dotBERLIN GmbH & Co. KG 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, dotBERLIN GmbH & Co. KG 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 dotBERLIN GmbH & Co. KG identifies security risks that pose an actual risk of harm, dotBERLIN GmbH & Co. KG 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 - dotBERLIN GmbH & Co. KG 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. dotBERLIN GmbH & Co. KG will maintain these

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reports for the agreed contracted period and provide them to ICANN upon request in connection with contractual obligations.

5. Making and Handling Complaints - dotBERLIN GmbH & Co. KG will ensure that there is a mechanism for making complaints to dotBERLIN GmbH & Co. KG 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, dotBERLIN GmbH & Co. KG 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.

dotBERLIN GmbH & Co. KG would like to note that registration policies will be setup according to this request.

However dotBERLIN GmbH & Co. KG reserves the right to supplement the answer to the GAC Advice with additional or amended commitments based on GAC and community feedback.