

March 12, 2014

VIA EMAIL to [reconsideration@icann.org](mailto:reconsideration@icann.org)

ICANN Board Governance Committee  
Dr. Bruce Tonkin, Chairman  
ICANN Board Governance Committee Representatives  
12025 Waterfront Drive, Suite 300  
Los Angeles, California 90094

**Re: Reconsideration Request 14-4; Kosher Marketing Assets LLC Reply to Second Supplement Submitted by Union of Orthodox Jewish Congregations of America.**

Dear Dr. Tonkin and Members of the Board Governance Committee:

I write on behalf of Kosher Marketing Assets LLC ("KMA") in response to the additional supplement recently submitted by the Union of Orthodox Jewish Congregations of America ("OU"). See [Letter from David E. Weslow to ICANN Board Governance Committee](#) (March 6, 2014).

We disagree with the OU's mischaracterization of our reply to Reconsideration Request 14-4. KMA does not seek to belittle the views of the United States Government. Rather, KMA recognizes that Assistant Secretary Strickling's letter informs the Board that stakeholders—including the OU—have expressed concerns to National Telecommunications and Information Administration (NTIA), and that the NTIA welcomes the ICANN Board New gTLD Program Committee's clarification of the issue. See [Letter from Lawrence E. Strickling to Dr. Stephen D. Crocker](#) (February 4, 2014).

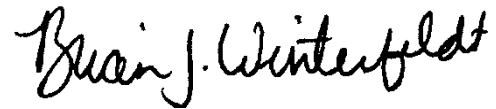
KMA has discussed Assistant Secretary Strickling's letter with NTIA representatives and KMA has also formally replied with its attached affirmation to operate a fair and transparent gTLD. The reply includes proposed Public Interest Commitment (PIC) language for .KOSHER offered by KMA in the spirit of good faith. KMA is happy to work with the ICANN Board, the

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NTIA, and the GAC to resolve any questions concerning KMA's application and the implementation of the proposed PIC.

Respectfully,



Brian J. Winterfeldt

*Representative for Kosher Marketing Assets, LLC*

**Brian J. Winterfeldt**

Head of Internet Practice

**Katten Muchin Rosenman LLP**

Contact Information Redacted

# **Response to Reconsideration Request 14-4**

## **Kosher Marketing Assets, LLC**

### **Annex C**

Letter from Kosher Marketing Assets, LLC to  
Assistant Secretary Lawrence E. Strickling  
(12 March 2014)

March 12, 2014

VIA FEDEX AND EMAIL to Contact Information Redacted

Lawrence E. Strickling  
Office of the Assistant Secretary for Communications and Information and  
NTIA Administrator  
National Telecommunications & Information Administration  
U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, D.C. 20230

**Re: Kosher Marketing Assets LLC's Public Interest Commitment Proposal for .KOSHER**

Dear Assistant Secretary Strickling:

I write on behalf of our client, Kosher Marketing Assets LLC (KMA), in response to your letter of February 4, 2014 to Dr. Stephen D. Crocker concerning the implementation of Governmental Advisory Committee (GAC) Advice as set forth in its Beijing Communiqué. With this letter KMA affirms its commitment to a fair and transparent operation of the .KOSHER gTLD and requests a meeting with you and your staff to discuss a practical implementation of the proposed Public Interest Commitment (PIC) Specification contained herein.

KMA's parent organization is OK Kosher Certification (OK), one of the world's oldest and largest international kosher certification organizations. OK is recognized and highly regarded as a global leader within the kosher food certification industry, and provides certification in over ninety countries on six continents with the support of more than 350 of the world's leading experts on the laws of kashrus.

KMA applied to operate the .KOSHER gTLD for the benefit of the entire kosher industry, including consumers, producers, vendors and certifiers of kosher food. The application is supported by over forty kosher certification organizations, certifying rabbis, and other essential kosher industry players from over twenty countries worldwide, including such prominent figures as Rabbi Berel Lazar, the Chief Rabbi of Russia, and Rabbi Levi Shemtov, who certifies events at the Capitol and White House in Washington, D.C.

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We acknowledge that some stakeholders, such as the Union of Orthodox Jewish Congregations of America (OU), have raised concerns with you about how Specification 11 of the New gTLD Registry Agreement (RA) ensures both fair and transparent registration policies for new gTLD applications for terms which were not included in the list in the GAC Beijing Communiqué, such as .KOSHER. Indeed, KMA is presently weighing its options for legal recourse in connection with negative and patently false allegations regarding the .KOSHER new gTLD application made by these stakeholders both in the media and to governmental officials.

KMA agrees with Dr. Crocker's reply of February 10, 2014 stating that the existing PIC Specification fully implements the GAC's Beijing advice on restricted access registries when considered in conjunction with the other protections in the RA. Indeed, the Expert Panel that dismissed the OU's formal objection against the application agreed that KMA is obligated by Specification 11 to provide adequate safeguards against any improper behaviors to the detriment of other members of the community. The Expert specifically recognized KMA's good faith and explicitly considered and rejected the claim that KMA would be in a position to apply subjective standards to exclude the OU and its clients or to contradict its certification standards. See *Union of Orthodox Jewish Congregations of America vs. Kosher Marketing Assets LLC*, ICC Case No. EXP/424/ICANN/41 (January 14, 2014).

In the spirit of good faith, KMA wishes to recommit to a fair and transparent operation of .KOSHER by offering to include a PIC Specification with its RA above and beyond the language in Specification 11. While KMA believes that some eligibility criteria will be necessary to maintain the integrity of the space, it recognizes the diversity of kosher certification organizations and will not limit eligibility based on kosher certification methodology, whether established by OK or KMA alone. Accordingly, KMA would like to include a PIC Specification in which:

*The Registry Operator commits to administer registry access in a transparent way that does not give an undue preference to any registrars or registrants, including itself, and shall not subject registrars or registrants to an undue disadvantage.*

We hope this additional PIC Specification assures you that KMA will operate .KOSHER in an open manner with appropriate eligibility requirements, and administer the gTLD in a fair and transparent way, as both OK and KMA have committed in previous letters to ICANN, the

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National Telecommunications and Information Administration (NTIA), and the United States Department of Commerce.

We look forward to the NTIA's discussion of stakeholder concerns at the March GAC meeting in Singapore. We wish to reiterate KMA's request for a conference with NTIA after the Singapore meeting to personally confirm its commitment to operating a fair and transparent TLD, and to obtain your feedback on the practical implementation of this Public Interest Commitment in light of GAC discussions in Singapore.

Finally, we encourage you to review Timothy D. Lytton's book *Kosher: Private Regulation in the Age of Industry Food* to learn more about the nature and landscape of kosher certification. You will see Mr. Lytton provides important context, particularly in Appendix A, about the role and relationships between industry players such as the OU and OK.

On behalf of Kosher Marketing Assets LLC, we thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions or concerns about OK Kosher, Kosher Marketing Assets, the .KOSHER gTLD application, or the kosher certification industry in general.

Respectfully,



Brian J. Winterfeldt