

THE .JOBS CHARTER COMPLIANCE COALITION

14 October 2010

TO: reconsider@icann.org

CC: Mr. Dennis Jennings, Chair, Ms. Rita Rodin Johnston, Mr. Ray Plzak, and Mr. Ram Mohan

From: John Bell, Chair
The .JOBS Charter Compliance Coalition

Re: Request 10-2: .JOBS Charter Compliance Coalition

In connection with your consideration of the above referenced request for reconsideration, please find enclosed a series of questions for Employ Media that have been developed by the .JOBS Charter Compliance Coalition. The Coalition believes that the answer to these questions strongly support our view that the .JOBS Phased Allocation Program cannot be implemented in compliance with the .JOBS Charter.

Questions Regarding .JOBS Charter Expansion

1. .JOBS CHARTER LANGUAGE AND REGISTRATION RESTRICTIONS

The [.JOBS Charter](#) (“Charter”) provides that the following persons may request registration of a second-level domain within the .JOBS TLD:

- members of SHRM (*who, according to the SHRM application are “persons engaged in human resource management”*); or
- persons engaged in human resource management practices that meet any of the following criteria: (i) possess salaried-level human resource management experience; (ii) are certified by the Human Resource Certification Institute; (iii) are supportive of the SHRM Code of Ethical and Professional Standards in Human Resource Management, as amended from time to time, a copy of which is attached hereto.

Paragraph 1 of the Charter defines “human resource management” as:

the organizational function that focuses on the management and direction of people. ... those persons who deal with the human element in an organization – people as individuals and groups, their recruitment, selection, assignment, motivation, compensation, utilization, services, training, development, promotion, termination and retirement.

Part [VII.3 of Appendix S](#) limits registrations to “Qualified Applicants,” defined by reference to the .JOBS Charter, Part IV, described above, i.e., persons engaged in “human resource management.”

Questions:

- Do you agree with the language in Paragraph 1 of the Charter, which defines “human resource management” as the “organizational function that focuses on the management and direction of people?”
 - Does this definition limit the members of “human resource management” as those persons who work in the human resource function within their respective companies or organizations? If not, please explain.
 - Please reconcile that interpretation with language in the .JOBS Charter, which refers to “human resource management” as “the organizational function that focuses on the management and direction of people. The Community consists of those persons who deal with the human element in an organization – people as individuals and groups, their recruitment, selection, assignment, motivation, compensation, utilization, services, training, development, promotion, termination and retirement.”

- According to the [minutes of the .JOBS PDP Council 9 April 2010](#), “Employ Media stated that it could register names because it believes it complies as a member of the human resources community and complies with the SHRM Code of Ethics as well. Employ Media also responded that any company or member of SHRM can acquire a domain name” in the .JOBS TLD. Employ Media also asserted that the .JOBS Charter is meant for “any business” to acquire a domain name.”
 - Is it Employ Media’s contention that the Charter contains no restrictions at all regarding persons eligible to register a second-level domain name within the .JOBS TLD? If so, how is that reconciled with the limitation of registrations to persons “engaged in human resource management” as set forth in the Charter?
 - Is it Employ Media’s contention that a second level domain name in .JOBS may be used by a registrant to offer its products and services to third parties?
 - If so, how is this consistent with the following FAQs posted on the .JOBS website, at www.goto.jobs:
 - *“Question: “Who is .jobs for?” The response is that “.jobs is for every employer organization in the world that invests in recruitment advertising.”*
 - *Question: “What is .jobs for?” Answer: “.jobs is for your recruitment ads...”*
 - Please explain your understanding of what a “Qualified Applicant” is as that term is used in Appendix S. Is “any company” a “Qualified Applicant”?
 - Based on the registrant requirements described above, please describe Employ Media’s interpretation of which class of persons, if any, would be precluded from requesting registration of a second-level domain within the .JOBS TLD.
 - Based on the registrant requirements described above, please describe Employ Media’s interpretation of what restrictions, if any, would apply to use of a second-level registration in .JOBS by a “Qualified Applicant” or “any company”?
- Is there a difference between the “human resource community” (as referenced by Employ Media in the [minutes of the .JOBS PDP Council 9 April 2010](#)) and the “human resource management community” that is defined in the Charter as the “Community” for the .JOBS sTLD?
- Is it your contention that a person is a member of the “international human resource management community” and therefore permitted to register a second-level domain within the .JOBS TLD on the sole basis that the person states their support of the SHRM Code of Ethical and Professional Standards in Human Resource Management?

- If this is your position, please reconcile that position with the definition of the sponsored Community as persons engaged as “human resource management,” which is in turn defined in the Charter as “the organizational function that focuses on the management and direction of people. ... [which] consists of those persons who deal with the human element in an organization – people as individuals and groups, their recruitment, selection, assignment, motivation, compensation, utilization, services, training, development, promotion, termination and retirement.”
- If this is your position, please reconcile that position with the fact that the [SHRM Code of Ethical and Professional Standards in Human Resource Management](#), as set forth in the Charter, is written from the perspective of individuals responsible for human resource management within a particular organization (“As HR professionals, we are responsible for adding value to the organizations we serve and contributing to the ethical success of those organizations”) and sets forth principles and guidelines applicable to HR professionals as they serve their organizations.

2. THE PHASED ALLOCATION PROGRAM

Employ Media’s Phased Allocation Program (the “Program”) proposes the following 3-step implementation process: (1) a Request for Proposal (“RFP”) process; (2) an auction round offering domains not allocated through the RFP process; and (3) a first-come, first-served release of any domains not registered through the RFP or auction process (the “Implementation Process”).

- Please explain how the Implementation Process, which invites “interested parties” to propose plans for registration of second-level .JOBS domain names, is compliant with the .JOBS Charter regarding the limitation of potential registrants and/or potential uses of .JOBS registrations.
- Please describe the protections in place to preserve the Charter’s restriction of registrations at the second-level to only those persons engaged in the human resource management function.
- In its application for the Phased Allocation Program (“Application”), Employ Media stated that “independent site operators” in other TLDs have indicated an interest in submitting an RFP and also indicated that the Program could “enable an expansion of their product and service offerings in new/innovative ways.”
 - Are these independent site operators engaged in “human resource management” as defined in the Charter?
 - If so, will these independent site operators be required to use second level registrations in .JOBS for their internal human resource management activities?

- If not, please explain how this use of .JOBS registrations would comply with the .JOBS Charter restrictions.
- In the [minutes of the .JOBS PDP Council from 28 April 2010](#), the Council Chairman, Gary Rubin, is reported as saying “it is publically known that Employ Media has a plan to create a job board of specialized jobs (i.e., nurses.jobs, etc.) through a partner or partners.” Is this characterization of Employ Media’s intentions with respect to the Program accurate? Did Employ Media have an agreement with a partner (or partners) to implement this plan at the time of this Council meeting? If so, who was the partner(s)?
- Is it your contention that Employ Media is permitted under the Registry Agreement to register second level domains in .JOBS for the purpose of, directly or through third parties, operating websites offering employment and/or other services?

3. PROPOSED “SELF-MANAGED” PLANS UNDER THE PROGRAM

In its Application, Employ Media states that it intends to solicit plans under the Program “which may create a self-managed class of domains registered in Employ Media’s name.” In response to a question regarding objections from the ICANN community to the Program, Employ Media states in its Application that “[p]eople may interpret Employ Media’s implementation as a registry operator of certain types of proposals (such as a self-managed class of domain names) to be of potential impact to one or more of the remaining overarching issues to ICANN’s new gTLD process (such as Vertical Integration).

Questions:

- Please describe in detail what you mean by a “self-managed class of domain names.”..
- Please describe how this proposed plan for a self-managed class of domain names would be compliant with the .JOBS Charter.

4. ROLE OF SHRM AND PDP COUNCIL

Under [Appendix S, Section 2](#), ICANN has delegated authority to Employ Media to determine:

- Restrictions on what types of people or entities may register Registered Names (which need not be uniform for all names within the Sponsored TLD), provided the scope of the Charter (Attachment 1) is not exceeded; and
- Restrictions on how Registered Names may be used (which need not be uniform for all names within the Sponsored TLD), provided the scope of the Charter (Attachment 1) is not exceeded.

In turn, Employ Media has engaged the Society for Human Resource Management “as policy delegate ... to assist in provision of such responsibilities,” The [minutes of the PDP Council from 3 June 2010](#), where the Program was approved, indicate that the PDP Council believes its role is

limited to consideration of whether or not a particular proposal “is in the interests of” or “serves” human resource management professionals. For example:

Member #7 then stated that he/she joined this Council to handle a specific purpose...to represent the interests of the members of the international human resource management community. He /she feels comfortable that the Council has done a good job on this issue. Council Member #7 believes that the Council members have sought to understand the technical issues involved. He/she has set aside all contractual issues and has focused on his role to render a decision for the above-described purpose.

Council Member #3 believed that he/she was not called upon to serve on the Council as a technical or legal expert, but rather, to vote upon whether or not this amendment is a benefit to the HR profession. Council Member #9 agreed with Council Member #3 that he/she is solely looking at this role as to whether this benefits the HR profession.

Questions:

- Who is responsible for ensuring that the .JOBS TLD is managed in accordance with the Charter?
- Does Employ Media agree that the job of PDP Council members is limited to evaluating whether or not a proposal serves “the interests of the members of the international human resource management community”?
- If so, do you agree that Employ Media is responsible for ensuring that .JOBS operates in accordance with the Charter?
 - Did Employ Media prepare an analysis to support the conclusion that it could offer second level registrations to “any company” for purposes other than “human resource management”?

5. INDEPENDENCE OF SHRM AND PDP COUNCIL

According to [Appendix S, Part VII.3](#), the “Employ Media/SHRM agreement contractually obligates SHRM to act independently from Employ Media and in the best interests of the Community in its role as policy delegate.”

- Please describe the steps Employ Media has taken to ensure the independence and separation of SHRM and the PDP Council.
- In the course of its deliberations on the Program, the PDP Council was informed that “SHRM does not benefit financially from the outcome of these proceedings, nor does SHRM receive any revenue shares or other variable royalty from Employ Media pertaining to the sale, lease, or licensing of domain names either directly or through third parties. SHRM does receive a fixed annual payment for its role as sponsor and Employ Media purchases advertising.” See, [minutes of the .JOBS PDP Council 9 April 2010](#). However, [in an article in the March 2007 issue of Crain’s BtoB Media Business](#), Gary Rubin, SHRM’s chief

publishing, e-media and business development officer and the chair of the PDP Council, stated that SHRM is collecting a percentage from every site that registers under .JOBS, which he described as an “uber-royalty.”

- When did the compensation arrangement between Employ Media and SHRM change, and were PDP Council members made aware of the prior arrangement?
- Did Employ Media ever disclose to the PDP Council how the proposed amendment financially impacted Employ Media and SHRM?

6. DIRECTEMPLOYERS ASSOCIATION AND THE .JOBS UNIVERSE

On 23 April 2010, Employ Media posted the following “news” on its [website](#):

DirectEmployers Association stands ready to submit its .jobs proposal for certain industry, occupation, and geographic type names, operated previously as a beta test in the latter half 2009, upon being notified of permission by Employ Media to do so.

The [universe.jobs](#) website also quotes the Chairman of Employ Media as follows:

We believe in the vision of the Internet becoming the dominant medium to easily connect employers and job seekers. The .jobs TLD working with DirectEmployers Association can accomplish this worldwide. We have a great plan, and with DirectEmployers Association, the right ingredients to facilitate the elusive direct connection that can finally unleash the Internet’s greatest strength to the online employment sector.

The [universe.jobs](#) website goes on to say that “.jobs and DirectEmployers Association have formed an alliance to activate, manage and complete the build-out of all .jobs domains... a.k.a. The Dot Jobs Universe.”

- Please describe in detail your participation in, and/or affiliation with, the website [www.universe.jobs](#) and the related “Dot Jobs Universe” described therein.
- Why did Employ Media post this link on its website? Did it post any other RFP applicant’s responses on [www.goto.jobs](#)? Please explain why posting DirectEmployers’ RFP response on Employ Media’s website does not, at a minimum, create the perception that one of the RFP applicants is favored by Employ Media.
- Have other applicants to the .JOBS RFP process been notified of your alliance with DirectEmployers Association to “build out” the .JOBS domain?
- Please explain how the DirectEmployers Association qualifies as a person engaged in human resource management practices, defined in the Charter as “the organizational function that focuses on the management and direction of people. ... those persons who deal with the human element in an organization – people as individuals and groups, their

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recruitment, selection, assignment, motivation, compensation, utilization, services, training, development, promotion, termination and retirement.”

- Please explain why the DirectEmployers Association is a Qualified Applicant in connection with its operation of the .JOBS Universe.
- The [minutes of the .JOBS PDP Council 9 April 2010](#) meeting indicate that Council discussed a potential conflict of interest with respect to Rhonda Stickley. In response, Ms. Stickley, who is Senior Director, Talent Acquisition at Provident Health & Services, stated that she is a representative for DirectEmployers Association elected by its members. Ms. Stickley stated that she does not work for DirectEmployers Association, but rather, is a figurehead or voice of the members of DirectEmployers Association, and does not have any affiliations with DirectEmployers Association other than that she is a member. According to the DirectEmployer Association website, however, Ms. Stickley currently serves as the President of DirectEmployers Association and sits on its Executive Committee. In addition, Ms. Stickley is on the Advisory Council of the .JOBS Universe, “to assist in the build-out of the .JOBS domain.” <http://www.universe.jobs/advisory-council.html>
 - Given DirectEmployers Association’s stated goal for a “build-out” of the .JOBS TLD and Ms. Stickley’s role as the Association’s president and her membership in the .JOBS Universe Advisory Council, do you believe that Ms. Stickley should have recused herself from participating in the Council because of a conflict of interest?
- The DirectEmployers Association Annual Meeting and Conference was held on 7-8 October 2010 in Las Vegas. The [agenda for the meeting](#) lists two .jobs events: (1) a discussion of “the future of .jobs” and (2) a networking reception with a special .jobs presentation. We have attached a PDF of the Agenda published on the DirectEmployers Association website on 9 August 2010, which lists both Tom Embrescia and Rhonda Stickley as participants and reflects Employ Media’s sponsorship of the networking reception. This information is not included in the currently posted agenda linked above.
 - Did Employ Media participate in, sponsor or otherwise support these .jobs events at the DirectEmployers Association Annual Meeting and Conference?
 - Is Employ Media participating in and/or sponsoring similar events for other RFP applicants?
 - If Employ Media had any involvement with these events, please explain why such an involvement does not, at a minimum, create the perception that one of the RFP applicants is favored by Employ Media.