



The Internet Corporation for Assigned Names and Numbers

1 April 2015

Mr. Eckard Pols
Member of the Bundestag
Commission for Children's Concerns
Paul Löbe Building
Konrad-Adenaur-Straße 1
10557 Berlin
Germany

Dear Mr. Pols:

Thank you for your letter of 14 January 2015 regarding Ferrero Trading Lux S.A.'s application for .KINDER. We have posted your letter to the gTLD correspondence page at (<https://www.icann.org/en/system/files/correspondence/pols-to-chehade-14jan15-en.pdf>). We appreciate your views regarding engagement of children's organizations in New gTLD Program processes. We share the same view and recognize that such participation is important to ICANN's multistakeholder model, and we look forward to continued engagement with the Commission for Children's Concerns.

In your letter, you stated: "In the interests of internet users, and in particularly in the interests of children, I ask that the allocation of the top-level domain ".kinder" to a commercial user be re-examined and reconsidered."

The New gTLD Program provides several avenues throughout the life of the Program for the community to participate and share their comments, concerns, or support. One of those avenues is the Application Comment Forum,¹ which allows any interested party to submit comments regarding any application for consideration by the evaluation panels. Although the application evaluation phase has ended, the Application Comment Forum remains open, and comments can still be submitted. We note that the .KINDER application has not received any comments to date.²

The New gTLD Program also provides mechanisms to protect certain interests and rights through the Public Objection and Dispute Resolution Process. Parties with standing have the

¹ See Section 1.1.2.3 of the Applicant Guidebook:

<http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

² See <http://newgtlds.icann.org/en/program-status/comments>

option to file a formal objection to an application on any of the following grounds: (1) Limited Public Interest; (2) Community; (3) Legal Rights; (4) String Confusion. In cases where no formal objections have been filed, the Program allows for formal objections to be filed by the Independent Objector, who can lodge Community and Limited Public Interest objections in the best interests of global Internet users if there are comments in opposition to the application made in the public sphere.³ The Independent Objector did not file a Community or Limited Public Interest objection on the .KINDER application.⁴ More information regarding these objection grounds and the standing to file objections on any of these grounds can be found in Section 3.2 of the Applicant Guidebook.⁵

Lastly, the New gTLD Program allows for the ICANN's Governmental Advisory Committee (GAC) to provide advice to the ICANN Board on any application it identifies as problematic. In its Beijing Communiqué,⁶ the GAC identified a list of strings that it believes require safeguards. The .KINDER string was named in this list. On 5 February 2014, the New gTLD Program Committee (NGPC) of the ICANN Board adopted an implementation framework⁷ requiring certain safeguards to be added to the Registry Agreement for strings identified on the GAC Category 1 list. These safeguards are part of the Public Interest Commitments (PICs) that are enforceable by ICANN compliance and via the Public Interest Commitments Dispute Resolution Procedure (PICDRP).⁸

On 7 November 2014, ICANN signed the .KINDER Registry Agreement with Ferrero Trading Lux S.A., which contains Safeguards 1-3 in Specification 11 Section 3(e-g). Further, on 18 December 2014, ICANN granted Ferrero Trading Lux S.A. Specification 13 after Ferrero Trading Lux S.A. demonstrated to ICANN's satisfaction that it had met the requirements under Specification 13,⁹ which were developed with the community. Prior to making its determination, ICANN allowed for a 30-day comment period on Ferrero Trading Lux S.A.'s

³ See <http://newgtlds.icann.org/en/program-status/odr/independent>

⁴ See *list of objections filed by the Independent Objector*: <http://www.independent-objector-newgtlds.org/home/the-independent-objector-s-objections/>

⁵ See <http://newgtlds.icann.org/en/applicants/agb/objection-procedures-04jun12-en.pdf>.

⁶ See

https://gacweb.icann.org/download/attachments/27131917/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1385487299000&api=v2

⁷ See <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-annex-2-05feb14-en.pdf>

⁸ See <http://newgtlds.icann.org/en/applicants/agb/picdrp-19dec13-en.pdf>

⁹ See <http://newgtlds.icann.org/en/applicants/agb/base-agreement-spec-13-application-form-15jul14-en.pdf>



request for Specification 13. No relevant comments were submitted regarding Ferrero Trading Lux S.A.'s request for Specification 13.

We would like to encourage you to review the .KINDER Registry Agreement in Annex 1¹⁰ and enter into dialogue with Ferrero Lux Trading S.A. regarding any concerns that you may have pertaining to the operation and registration policies of the .KINDER TLD. Should Ferrero Trading Lux S.A. wish to request an amendment to the current .KINDER Registry Agreement, ICANN would consider such request.

Outside of these avenues, ICANN's Bylaws provide mechanisms for aggrieved parties to seek relief. These mechanisms include the Ombudsman, Reconsideration Process, and Independent Review Process. If you wish to learn more about these mechanisms, please visit the Accountability Mechanisms page of the ICANN website (<https://www.icann.org/resources/pages/mechanisms-2014-03-20-en>).

If you have additional questions or concerns, please do not hesitate to contact us. Thank you again for your communication and for your participation in ICANN's multistakeholder process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Akram Atallah", written in a cursive style.

Akram Atallah
President, Global Domains Division

¹⁰ Also available at <https://www.icann.org/resources/agreement/kinder-2014-11-07-en>