Response to Documentary Information Disclosure Policy Request

To: Bart Lieben on behalf of dotgay LLC

Date: 21 October 2015

Re: Request No. 20151022-1

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Thank you for your Request for Information dated 22 October 2015 (Request), which was submitted through the Internet Corporation for Assigned Names and Numbers' (ICANN's) Documentary Information Disclosure Policy (DIDP) on behalf of dotgay LLC (Requester). For reference, a copy of your Request is attached to the email forwarding this Response.

**Items Requested**

Your Request seeks documentary information relating to the second Community Priority Evaluation (CPE) of dotgay LLC's application for the .GAY gTLD (Application ID: 1-1713-23699), which was completed and for which a CPE Report was issued on 8 October 2015. Specifically, you request the disclosure of:

> 1) policies, guidelines, directives, instructions or guidance given by ICANN relating to the Community Priority Evaluation process, including references to decisions by the ICANN Board that such guidelines, directives, instructions or guidance are to be considered "policy" under ICANN by-laws;
>
> 2) internal reports, notes, (weekly) meeting minutes drawn up by or on behalf of ICANN, the Community Priority Panels, and other individuals or organizations involved in the Community Priority Evaluation in relation to the Application;
>
> 3) detailed information on the evaluation panels that have reviewed Requester's Application during the first CPE that was conducted in 2014, as well as the evaluation panels that have conducted the second CPE in 2015, including the names and respective positions of the members of the evaluation panels;
>
> 4) detailed information in relation to (i) the information reviewed, (ii) criteria and standards used, (iii) arguments exchanged, (iv) information disregarded or considered irrelevant, and (v) scores given by each individual Community Priority Evaluation panel member in view of each of the criteria set out in the Applicant Guidebook, and more in particular:
>
> **I. In relation to the criterion "Nexus"**
>
> 5) which information, apart from the information contained in the Application, has been used by the CPE Panel in order to determine that the word "gay" "does not identify or match the name of the community as defined in the Application,

nor is it a well-known short-form or abbreviation of the community", notwithstanding the fact that public references to this "catch-all" or "umbrella" term made by reputable organizations prove otherwise;

6) whether, in considering that individuals who qualify as transgenders, intersex or "allies" are not deemed to be members of the community as defined by the Application, whereas various national, international and supranational organizations such as Parents, Families, and Friends of Lesbians and Gays (PFLAG) and Children of Lesbians and Gays Everywhere (COLAGE), both of which are also endorsing the Requester's Application for the .GAY gTLD,3 are clearly being recognized as supporting the same causes and endorsing the same values as expressed by the "inner circle" of members of this community, especially since they are closely linked to the thematic remit the community has;

7) based on the CPE Report, it seems that the EIU assumed that an "ally" necessarily would be an individual, notwithstanding various statements Requester has made to the contrary, for instance in the context of its initial Reconsideration Request. Therefore, Requester would like to obtain insights into the definition or concept used by the EIU in order to determine what an "ally" is;

8) in relation to the above: which information, statistics, etc. and criteria to evaluate and weigh the importance of such information have been used in determining that transgenders, intersex, or "allies" would be "substantially" overreaching the term "gay";

9) why, considering the fact that the CPE Panel did not provide passing scores in relation to Requester's answers in relation to the "Nexus between Proposed String and Community" and "Community Endorsement" aspects of the Application, the CPE Panel or ICANN has not reached out to the Requester in the form of Clarifying Questions.

**II. In relation to the criterion "Community Endorsement":**

10) which letters of endorsement and/or support have been considered and verified by the CPE Panel in making its Determination, bearing in mind the fact that the BGC has determined that the EIU has made a process error in the context of the first CPE that was performed in 2014. The information provided in the second CPE Report does not allow Requester to distinguish the letters that have been provided by Requester in the context of the Application from the letters that have been published on ICANN's correspondence page or through other means since the publication of the first CPE Report;

11) which criteria and/or standards have been used by the CPE Panel in order to determine which group is "of relevance" in relation to the organizations, companies and individuals that have provided letters of endorsement and/or support in relation to the Application;

12) why, although the CPE Panel has recognized that Requester "possesses documented support from many groups with relevance", only the support of "one group of relevance" has been taken into consideration by the CPE Panel;
13) what were the criteria and standards that have been used by the Panel in making such distinction and coming to such determination;

14) bearing in mind the previous question, why the CPE Panel has come to a different assessment in relation to the standing of ILGA expressed by the Expert Determination provided by the ICDR, which has been acknowledged and endorsed by ICANN in dismissing an official complaint lodged before the ICDR by Metroplex Republicans of Dallas, in which the Requester prevailed;

15) which scores or evaluations have been given to the organizations, companies and individuals that have provided letters of endorsement and/or support in relation to the Application against such criteria and/or standards for each of the organizations, companies and groups referred to in the Application and the CPE Report;

16) if no particular additional criteria and/or standards have been utilized by the CPE Panel, apart from the ones published in the Applicant Guidebook and the Guidelines published by the CPE Panel, a detailed overview of the arguments that have been brought forward and have been adopted or acknowledged by the CPE Panel for not considering the letters of support and/or endorsement from other groups, organizations, companies and individuals;

17) which independent research has been performed by the CPE Panel and how the results of such research have been taken into account by the CPE Panel in the scoring they have applied. Considering the wide endorsement obtained from various umbrella organizations, national and supranational groups, the Determination makes it clear that only one letter of endorsement from one group considered "relevant" by the CPE Panel has been taken into account.

**III. In relation to the criterion "Opposition":**

18) the name, address, and standing of the anonymous organization considered by the CPE Panel;

19) an overview of the staff members, including their names, roles and responsibilities of such organization;

20) the events and activities organized by such organization;

21) which standards and criteria have been used by the CPE Panel in order to determine that such activities had a "substantial" following;

22) the metrics used by ICANN and the Community Priority Evaluation Panels in performing the evaluation; and

23) whether any of the information provided by the Requester to ICANN in relation to potential spurious or unsubstantiated claims made by certain organizations have been taken into account, and – in such event – the reasons for not taking into account such information;

24) in particular, Requester would like to know whether the Community Priority Panel has considered the letter of the Q Center of April 1st, 2015 in which the latter requested the opposition letter of the Q Center to be voided

**Response**

The standards governing CPE are set forth in Module 4.2 of the New gTLD Applicant Guidebook (Guidebook), and are available at http://newgtlds.icann.org/en/applicants/agb. CPE will occur only if a community-based applicant in contention selects CPE, and after all applications in the contention set have completed all previous stages of the gTLD evaluation process. (*See* Guidebook, § 4.2.) CPEs are performed by independent CPE panels that are coordinated by the Economist Intelligence Unit (EIU), an independent, third-party provider, which contracts with ICANN to perform that coordination role. (*See id.; see also,* CPE webpage at http://newgtlds.icann.org/en/applicants/cpe.) The CPE panel's role is to determine whether a community-based application meets the community priority criteria. (*See id.*) The Guidebook, the CPE Panel Process Document, and the CPE Guidelines (all of which can be accessed at http://newgtlds.icann.org/en/applicants/cpe) set forth the guidelines, procedures, standards and criteria applied to CPEs, and make clear that the EIU and its designated panelists are the only persons or entities involved in the performance of CPEs.

As part of the evaluation process, the CPE panels review and score a community application submitted to CPE against the following four criteria: (i) Community Establishment; (ii) Nexus between Proposed String and Community; (iii) Registration Policies; and (iv) Community Endorsement. An application must score at least 14 out of a possible 16 points to prevail in CPE; a high bar because awarding priority eliminates all non-community applications in the contention set as well as any other non-prevailing community applications. (*See* Guidebook at § 4.2; *see also,* CPE webpage at http://newgtlds.icann.org/en/applicants/cpe.)

To provide transparency of the CPE process, ICANN has established a CPE webpage on the new gTLD microsite, at http://newgtlds.icann.org/en/applicants/cpe, which provides detailed information about CPEs. In particular, the following information can be accessed through the CPE webpage:

- CPE results, including information regarding the Application ID, string, contention set number, applicant name, CPE invitation date, whether the

applicant elected to participate in CPE, and the CPE status. (http://newgtlds.icann.org/en/applicants/cpe#invitations).

- CPE Panel Process Document (http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf).
- EIU Contract and Statement of Work Information (SOW) (http://newgtlds.icann.org/en/applicants/cpe/eiu-contract-sow-information-08apr15-en.zip).
- CPE Guidelines (http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf).
- Draft CPE Guidelines (http://newgtlds.icann.org/en/applicants/cpe/guidelines-16aug13-en.pdf).
- Community Feedback on Draft CPE Guidelines (http://newgtlds.icann.org/en/applicants/cpe#invitations).
- Updated CPE Frequently Asked Questions (http://newgtlds.icann.org/en/applicants/cpe/faqs-10sep14-en.pdf).
- CPE Processing Timeline (http://newgtlds.icann.org/en/applicants/cpe/timeline-10sep14-en.pdf).

Preliminary Statement regarding Request No. 20151022-1

As a preliminary matter, many of the items in the Request do not specify whether the request relates to the first CPE of the Application that was performed in 2014 or the re-evaluation that was performed in 2015. Because you have previously filed a similar DIDP Request on 22 October 2014 seeking documents related to the first CPE, for purposes of this Response, we will interpret the Request to relate to the second CPE, unless otherwise specified in the request.

Item No. 1

Item No. 1 seeks "policies, guidelines, directives, instructions or guidance given by ICANN relating to the Community Priority Evaluation process." This request was previously made and responded to in Request No. 20141022-2. (*See* Response to Request No. 20141022-2, Item No. 3, *available at* https://www.icann.org/en/system/files/files/lieben-response-31oct14-en.pdf.) As noted therein, ICANN has published documentary information responsive to this item on the CPE webpage, including, the CPE Panel Process Document (http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf), the CPE Guidelines (http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf), Module 4.2 of the Guidebook (http://newgtlds.icann.org/en/applicants/agb/string-

contention-procedures-04jun12-en.pdf), and CPE Processing Timeline (http://newgtlds.icann.org/en/applicants/cpe/timeline-10sep14-en.pdf). Additionally, since ICANN responded to Request No. 20141022-2, it has published the EIU Contract and SOW (http://newgtlds.icann.org/en/applicants/cpe/eiu-contract-sow-information-08apr15-en.zip). Additionally, in response to this DIDP Request, ICANN will provide the email notifications to the EIU with instructions to begin the CPE of dotgay LLC's application for the .GAY TLD that was provided to the EIU in 2014 relating to dotgay's application and the email notification to begin re-evaluation in 2015 that was initiated pursuant to the Board Governance Committee's Determination on Reconsideration Request 14-44.

Item Nos. 2, 3, 4

Item Nos. 2, 3 and 4 seek extensive, detailed information regarding CPE Panels, the materials reviewed, the analysis conducted by the CPE Panel during the first CPE conducted in 2014 as well as the re-evaluation in 2015, as well any internal reports, notes, or meeting minutes by ICANN, the CPE Panels and "other individuals or organizations involved in the CPE in relation to the Application." (Request at pg. 2.) To help assure independence of the process, ICANN (either Board or staff) is not involved with the CPE Panel's evaluation of criteria, scoring decisions, or underlying analyses. The coordination of the CPE Panel, as explained above and in the CPE Panel Process Document, is entirely within the work of the EIU's team. As stated in the CPE Process Document, "[t]he Panel Firm's Project Manager is notified by ICANN that an application is ready for CPE, and the application ID and public comment delivered to the EIU. The EIU is responsible for gathering the application materials and other documentation, including letter(s) of support and relevant correspondence, from the public ICANN website." (*See* CPE Panel Process Document, Pg. 2, http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf.) Thus, except for the notices of commencement of CPE and the public comments submitted on the Application Comments page relating to the, ICANN is not responsible for gathering the materials to be considered by the CPE Panel. As such, ICANN does not have, nor does it collect or maintain, the work papers of the individual CPE panels that may contain the information sought through these items. The end result of the CPE Panel's analysis is the CPE Report, which explains the CPE Panel's determination and scoring, and is available at https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-1-1713-23699-en.pdf and https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-rr-1-1713-23699-en.pdf.

With respect to your request in Item No. 2 for "internal reports, notes, (weekly) meeting minutes drawn up by or on behalf of ICANN, the Community Priority Panels, and other individuals or organizations involved in the Community Priority Evaluation in relation to the Application", this request is vague. It is unclear whether you are seeking internal reports, notes, and weekly meeting minutes relating to the CPEs of the Application or all reports, notes, meeting minutes about the Application in general. To the extent that you are requesting that later, the request is subject to the following DIDP Defined Condition of Nondisclosure:

- Information requests: (i) which are not reasonable; (ii) which are excessive or overly burdensome; and (iii) complying with which is not feasible.

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information subject to the attorney client privilege, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

To the extent that you are requesting these document as it relates to the CPEs, ICANN does not maintain internal notes and meeting minutes in the regular course of business and therefore, ICANN has no documents responsive to this request. As for your request for internal ICANN reports, notes, or meeting minutes relating to the CPEs of the Application, such documents are subject to the following DIDP Defined Condition of Nondisclosure:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Information subject to the attorney client privilege, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

With respect to Item No. 3, seeking detailed information on the CPE Panels, to help assure independence of the process and evaluation of CPEs, ICANN does not maintain any information on the identity of the CPE Panelists. ICANN (either Board or staff) is not involved with the selection of a CPE panel's individual evaluators who perform the

scoring in each CPE process, nor is ICANN provided with information about who the evaluators on any individual panel may be. ICANN therefore does not have any documentation responsive to this item. The coordination of a CPE panel, as explained in the CPE Panel Process Document, is entirely within the work of the EIU's team. (*See* CPE Process Documents, Pgs. 2 and 4, http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf.) The CPE Panel Process Document provides a detailed description of the EIU's experience level, qualifications, EIU evaluators and core team. Specifically, the CPE Panel Process Document states:

> The Economist Intelligence Unit (EIU) was selected as a Panel Firm for the gTLD evaluation process. The EIU is the business information arm of The Economist Group, publisher of The Economist. Through a global network of more than 500 analysts and contributors, the EIU continuously assesses political, economic, and business conditions in more than 200 countries. As the world's leading provider of country intelligence, the EIU helps executives, governments, and institutions by providing timely, reliable, and impartial analysis.
>
> The evaluation process respects the principles of fairness, transparency, avoidance of potential conflicts of interest, and non-discrimination. Consistency of approach in scoring applications is of particular importance. In this regard, the Economist Intelligence Unit has more than six decades of experience building evaluative frameworks and benchmarking models for its clients, including governments, corporations, academic institutions and NGOs. Applying scoring systems to complex questions is a core competence.
>
> **EIU evaluators and core team**
>
> The Community Priority Evaluation panel comprises a core team, in addition to several independent 1 evaluators. The core team comprises a Project Manager, who oversees the Community Priority Evaluation project, a Project Coordinator, who is in charge of the day-to- day management of the project and provides guidance to the independent evaluators, and other senior staff members, including The Economist Intelligence Unit's Executive Editor and Global Director of Public Policy. Together, this team assesses the evaluation results. Each application is assessed by seven individuals: two independent evaluators, and the core team, which comprises five people.
>
> The following principles characterize the EIU evaluation process for gTLD applications:

- All EIU evaluators, including the core team, have ensured that no conflicts of interest exist.
- All EIU evaluators undergo regular training to ensure full understanding of all CPE requirements as listed in the Applicant Guidebook, as well as to ensure consistent judgment. This process included a pilot training process, which has been followed by regular training sessions to ensure that all evaluators have the same understanding of the evaluation process and procedures.
- EIU evaluators are highly qualified, they speak several languages and have expertise in applying criteria and standardized methodologies across a broad variety of issues in a consistent and systematic manner.
- Language skills and knowledge of specific regions are also considered in the selection of evaluators and the assignment of specific applications.

(CPE Panel Process Document, Pgs. 1-2, http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf.)

Item Nos. 5 through 24

Item Nos. 5 through 24 seek the disclosure of information related to the CPE Panel's evaluation of criteria, scoring decisions, or underlying analyses. Specifically, Item Nos. 5 through 9 request information related to the Panel's consideration of the "nexus" criterion. Item Nos. 10 through 17 request information related to the Panel's consideration of the "community endorsement" criterion. Item Nos. 17 through 24 request information related to the Panel's consideration of the "opposition" criterion.

As a preliminary matter, the majority of the requests seek information relating to the CPE Panel's evaluation. It is not clear from these items what documents are being requested, if any. The DIDP is intended to ensure that information contained in documents concerning ICANN's operational activities, and within ICANN's possession, custody, or control, is made available to the public unless there are compelling grounds for maintaining confidentiality. As these items do not appear to request documents, as written they are not appropriate under the DIDP. Should the Requester wish to amend these items to clarify what documents they are seeking, ICANN will endeavor to respond to such requests.

Notwithstanding the foregoing, to the extent that the Requester is seeking documentary information related to the Panel's evaluation of the CPE criteria, scoring decisions, or underlying analyses, as noted above, to help assure independence of the process and evaluation of CPEs, ICANN (either Board or staff) is not involved with the CPE Panel's evaluation of criteria, scoring decisions, or underlying analyses. The EIU is responsible for gathering the application materials and other documentation, including letter(s) of support and relevant correspondence, from the public ICANN website, as well as its

analysis of said materials (*See* CPE Panel Process Document, Pg. 2, http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf.) The end result of the CPE Panel's analysis is the CPE Report, which explains the CPE Panel's determination and scoring, and is available at https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-rr-1-1713-23699-en.pdf. Thus, with the exception of the CPE Report, which has been published, ICANN does not have documents that contain the requested information.

The CPE criteria are set forth in Module 4.2.3 of the Guidebook, including the scoring process. (*See* http://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf.) The CPE Guidelines provide further clarity around the CPE process and scoring principles outlined in the Guidebook. (*See* http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf.) Thus, for those items seeking information regarding the evaluation criteria and scoring applied by the Panel (Item Nos. 8, 11, 12, 13, 15, 16, 17, 21, and 22), the responsive information can be found in the Module 4.2.3 of the Guidebook (http://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf), the CPE Guidelines (http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf), and the CPE Report (https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-rr-1-1713-23699-en.pdf).

With respect to those items seeking information about which letters of endorsement and/or opposition were considered by the CPE Panel (Item Nos. 10, 18, 19, 20, 22, 23, and 24), letters in support of or in opposition to an application are publicly posted on the application webpage and ICANN's Correspondence webpages. In this instance, letters regarding dotgay LLC's application for .GAY are available at https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/444, https://www.icann.org/resources/pages/correspondence-2012-09-24-enand http://newgtlds.icann.org/en/program-status/correspondence. With respect to the EIU's actions taken to verify, or the EIU's reliance upon, such letters, in accordance with the CPE Panel Process Document the CPE Panel may review documents and communications, including letters of support or opposition, that are publicly available through a number of resources, including, but not limited to: (a) dotgay's application for .GAY available at https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/444; (b) the Correspondence webpages available at https://www.icann.org/resources/pages/correspondence-2012-09-24-en and http://newgtlds.icann.org/en/program-status/correspondence; (c) the Applicant Comment Forum available at https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments; (d) the Objection Determinations webpage available at http://newgtlds.icann.org/en/program-status/odr/determination; (e) information related to dot gay's Reconsideration Request 14-44 available at https://www.icann.org/resources/pages/14-44-2014-10-22-en. (*See* CPE Panel Process Document at Pg. 2, http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf.) As further noted in the CPE Panel Process Document, the EIU reviews ICANN's public correspondence page on a regular basis for recently received

correspondence to assess whether it is relevant to an ongoing evaluation. If it is relevant, the EIU provides the public correspondence to the evaluators assigned to the evaluation of a particular application. (*See id.* at Pg. 5.) ICANN (either Board or staff) is not involved with the CPE Panel's evaluation of criteria, scoring decisions, or underlying analyses, as such ICANN does. Thus, with the exception of the CPE Report, which has been published, ICANN does not have documents that contain the requested information.

Item No. 14 asks "why CPE Panel has come to a different assessment in relation to the standing of the ILGA expressed by the expert Determination provided by the ICDR." As noted above this request seeks information, rather than documents, and is not appropriate for the DIDP. Moreover, the Expert Determination provided by the ICDR to which the Requester references relates to a Community Objection filed by Metroplex Republicans of Dallas against dotgay LLC. (*See* http://newgtlds.icann.org/sites/default/files/drsp/25sep13/determination-1-1-1713-23699-en.pdf.) The criteria for Community Objections are set forth in Module 3.5.4, and are not the same standards as CPE.

**About DIDP**
ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see http://www.icann.org/en/about/transparency/didp. ICANN makes every effort to be as responsive as possible to the entirety of the Request. As part of its accountability and transparency commitments, ICANN continually strives to provide as much information to the community as is reasonable. We encourage you to sign up for an account at MyICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN's website that are of interest because, as we continue to enhance our reporting mechanisms, reports will be posted for public access.

We hope this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.

# Attachment 1

**Subject:** Application: 1-1713-23699 ready to begin CPE
**Date:** Monday, May 12, 2014 at 10:51:29 AM Pacific Daylight Time
**From:** Christopher Bare
**To:** EIU Designated Confidential Info
**CC:** Russ Weinstein

Hi EIU Designated Confidential Information

Just wanted to inform you that another application is ready to begin CPE.

Application ID: 1-1713-23699
String: GAY
Applicant: dotgay llc
CPE invite date: 23 April 2014

I have pulled the application comments for this application and placed them in the shared drive under the EIU folder (//dfs1-lax.ds.icann.org/External-New-gTLD-Prgm/EIU/CPE Application Comment/1-1713-23699_Application_Comment_12MAY14.csv).

Note: there are several comments in Arabic, I have forwarded these to our translations team and will get them to you as soon as possible.

There were also several updated letters of support posted to the ICANN correspondence page last week (http://newgtlds.icann.org/en/program-status/correspondence). The application detail page also has the original letters submitted with the application (https://gtldresult.icann.org/applicationstatus/applicationdetails/444).

Please let me know if any of these need translated.

The New gTLD microsite will be updated to show the application as CPE in progress today or tomorrow.

Thanks
Chris

**Chris Bare?**
*GDD Operations Manager*

Email: Christopher.Bare@ICANN.org
Confidential Contact Information

ICANN?
12025 Waterfront Drive, Suite 300?
Playa Vista, CA 90094-2536

# Attachment 2

**Subject:** RE: .GAY Reconsideration
**Date:** Tuesday, February 10, 2015 at 3:41:34 PM Pacific Standard Time
**From:** Jared Erwin
**To:** EIU Designated Confidential Information
**CC:** Russ Weinstein, Christopher Bare, EIU Designated Confidential Information
EIU Designated Confidential Information

That is correct. There have been no new comments since 7/7/14, so any additional letters will have to come through correspondence. For sake of the process, I have included a spreadsheet of the comments in the external share drive, dated as of today.

I am still working on getting a response to your other question, but I just want to make sure it's clear that the Panel is free to begin its re-evaluation at this point, now that the comment window has closed. The CPE micro-site (http://newgtlds.icann.org/en/applicants/cpe) will be updated by tomorrow morning to show that re-evaluation is in progress.

Thank you and will get back to you with more soon,

Jared

**From:** EIU Designated Confidential Information
**Sent:** February 10, 2015 15:22
**To:** Jared Erwin
**Cc:** Russ Weinstein; Christopher Bare; EIU Designated Confidential Information
**Subject:** Re: .GAY Reconsideration

Thanks, Jared. Unless we get any more from you, then, I'll assume there are no new comments to consider. Same will of course be the case for attachments which have not changed since the initial application. In that case, the only channel for additional potentially relevant letters of support or opposition will be the correspondence.

Thanks,
EIU Designated Confidential Information

On Tue, Feb 10, 2015 at 10:49 AM, Jared Erwin <jared.erwin@icann.org> wrote:
EIU Designated Confidential Information

> To your second question: yesterday was the last day for comments/correspondence. Today I was planning on sending you the latest comments. I don't think there are any new ones, though.

As to your first question, I'll try and get an answer/clarification for you as soon as possible.

Thank you!

Jared

**From:** EIU Designated Confidential Information
**Sent:** February 10, 2015 10:37
**To:** Jared Erwin; Russ Weinstein; Christopher Bare; EIU Designated Confidential Information
**Subject:** .GAY Reconsideration

Hi All,

I remembered as soon as we ended our call that I had a couple questions about this. First off, as per our discussion last week, we are considering dotGay LLC's reconsideration request as well as ICANN's response and any related materials (annexes, etc.) to be now "a part" of the application itself. Can you clarify exactly what that means? In other words, in several areas of dotGay's reconsideration request, they take issue with specific arguments that the CPE Panel made about certain issues - most of them in fact. As you know, ICANN did not rule favorably on any of their responses to the Panel's decisions (with the exception of the one about verification of letters), but nevertheless these arguments are now to be considered part of their application. The problem is that their arguments against the Panel's conclusions definitely verges on re-writing their initial application document. For example, information about Authenticating Partners, a key part of the Delineation section, is presented in a new light and in terms not used in the application document itself. How are our evaluators to consider such information that appears to be revised or differ to some extent from the application document?

Second, Jared, I believe today was the close of the 14-day comment window, is that correct? I just want to make sure we know when we have the last piece of incoming support/opposition materials to deal with.

Thanks,
EIU Designated Confidential Information



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# Attachment 3

**Subject:** RE: .GAY Reconsideration
**Date:** Wednesday, February 25, 2015 at 5:13:45 PM Pacific Standard Time
**From:** Jared Erwin
**To:** EIU Designated Confidential Information ', Russ Weinstein, Christopher Bare, EIU Designated Confidential Information

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I have some feedback for you on this question. Sorry again for the long delay in responding.

1) Our intention was to impress upon the panel and evaluators that the reconsideration request materials should be used to *inform* the evaluation, but it should not be *part* of the application. The materials should merely be considered relevant, much in the same way that an objection determination may also be considered relevant and inform the panel's understanding of the community. Here the materials may also inform the panel on the "landscape" of the proposed TLD, community, and the applicant.
2) Regarding the fact that this then may create conflicting information, ICANN is of the opinion that this might require a CQ.

Hopefully this is helpful. Let me know if you have any other questions.

Best,
Jared

**From:** EIU Designated Confidential Information
**Sent:** February 10, 2015 10:37
**To:** Jared Erwin; Russ Weinstein; Christopher Bare; EIU Designated Confidential Information
**Subject:** .GAY Reconsideration

Hi All,

I remembered as soon as we ended our call that I had a couple questions about this. First off, as per our discussion last week, we are considering dotGay LLC's reconsideration request as well as ICANN's response and any related materials (annexes, etc.) to be now "a part" of the application itself. Can you clarify exactly what that means? In other words, in several areas of dotGay's reconsideration request, they take issue with specific arguments that the CPE Panel made about certain issues - most of them in fact. As you know, ICANN did not rule favorably on any of their responses to the Panel's decisions (with the exception of the one about verification of letters), but nevertheless these arguments are now to be considered part of their application. The problem is that their arguments against the Panel's conclusions definitely verges on re-writing their initial application document. For example, information about Authenticating Partners, a key part of the Delineation section, is presented in a new light and in terms not used in the application document itself. How are our evaluators to consider such information that appears to be revised or differ to some extent from the application document?

Second, Jared, I believe today was the close of the 14-day comment window, is that correct? I just want to make sure we know when we have the last piece of incoming support/opposition materials to deal with.

Thanks

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