

For the attention of Mr Cherine Chalaby
Chair, ICANN New gTLD Program Committee
Document Information Disclosure Policy Request

By email: didp@icann.org

4th August 2014

Dear Sir,

Pursuant to ICANN's Documentary Information Disclosure Policy ("DIDP"), the applicants for the .HOTEL gTLD named at the end of this letter or their advisers hereby request the documents described further in this letter.

Relevant Background

On 11 June 2014, ICANN issued a Community Priority Evaluation Report ("Report") which determined that the Community Application ("CPE Application") by HOTEL Top-Level-Domain s.a.r.l. (Application I.D. 1-1032-95136) ("Hotel TLD") for the .HOTEL string had been successful.

The surprising success of the CPE Application leaves open the question of whether the correct standards of due care were applied, as the Report itself was largely perfunctory and made scarce reference to the underlying reasoning and documentation relied on by the Community Priority Evaluation Panel ("CPE Panel").

The Applicants, therefore, hereby respectfully request that ICANN produce the following documents directly and indirectly relating to the Report:

- 1) All correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication ("Communications") between individual member of ICANN's Board or any member of ICANN Staff and the Economist Intelligence Unit or any other organisation or third party involved in the selection or organisation of the CPE Panel for the Report, relating to the appointment of the Panel that produced the Report, and dated within the 12 month period preceding the date of the Report;
- 2) The curriculum vitae ("CVs") of the members appointed to the CPE Panel;
- 3) All Communications (as defined above) between individual members of the CPE Panel and/or ICANN, directly relating to the creation of the Report; and
- 4) All Communications (as defined above) between the CPE Panel and/or Hotel TLD or any other party prior with a material bearing on the creation of the Report.

("Requested Information")

The Requested Information does not meet any of the defined conditions under the DIDP for non-disclosure, and we consider each of these in turn:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.*

This condition does not apply.

- *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.*

Disclosure of the Requested Information would clearly promote the integrity of ICANN's deliberative and decision making process because all applicants for new gTLDs are reliant on the principles of fairness and transparency as the two pillars which enshrine and ensure that the process which they have subscribed to is completely conducted in good faith. There can be no justification for secrecy in relation to what is effectively a quasi-judicial process.

In addition we note, for the avoidance of doubt:

- 1) The Requested Information is unrelated to any personal, medical, contractual, remuneration or similar records.
- 2) The Requested Information is not likely to impermissibly prejudice any parties' commercial, financial or competitive interests. Additionally, to the extent that any requested document contains such information, the Requested Information should be redacted accordingly before it is provided in response to this request.
- 3) The Requested Information is not confidential business information or internal policies or procedures.
- 4) The Requested Information will not endanger the life, health or safety of any individual nor prejudice the administration of justice.
- 5) The Requested Information is not subject to attorney-client privilege.
- 6) The Requested Information is not drafts of communications.
- 7) The Requested Information is not related in any way to the security or stability of the Internet.
- 8) The Requested Information is not trade secrets or financial information.
- 9) The Requested Information request is reasonable, not excessive or overly burdensome, compliance is feasible and there is no abuse.

To the extent that any of the Requested Information does fall into one of the defined conditions for non-disclosure, ICANN should nonetheless disclose the information as the public interest in disclosing the information outweighs any harm that might be caused by disclosure.

ICANN's transparency obligations, created in ICANN's bylaws¹ and Articles of Incorporation², require publication of information related to the process, facts and analysis used by individual members of the CPE Panel in preparation of the Report.

Bylaw Article III, Section 1 provides as follows: "ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness."

1 <http://www.icann.org/general/bylaws.htm#I>

2 <https://www.icann.org/resources/pages/articles-2012-02-25-en>

Article I, Section 2 of the ICANN Bylaws also state that in performing its mission, a set of core values should guide the decisions and actions of ICANN. These include:

7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.
10. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.


Article 4 of the ICANN Articles of Incorporation provides:

"The Corporation shall operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable competition and open entry in Internet-related markets. To this effect, the Corporation shall cooperate as appropriate with relevant international organizations."

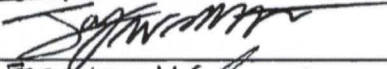
The ICANN community and certainly the Applicants are entitled to know both the qualifications and details of the appointment of members of the CPE Panel that made the decision and how they applied the relevant standards and the material on which they relied, following which the CPE Application of Hotel TLD for the .HOTEL string was successful, as the issue is causing enormous concern in the community.

Yours faithfully,

Jonathon Nevett

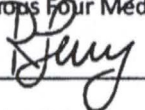
Donuts, Inc 

FairWinds Partners, LLC

~~Registry LLC~~ 

Registry LLC
~~FairWinds Partners~~

Famous Four Media Limited (on behalf of dot Hotel Limited)



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