



February 5, 2015

RE: Expert Opinion on Gay Community & .GAY (Application ID# 1-1713-23699)

To ICANN and the Economist Intelligence Unit,

Prior to the original CPE evaluation the International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA), a global representative of the gay community with the United Nations Economic and Social Council (ECOSOC<sup>1</sup>), and 40+ other LGBTQIA organizations, filed a Community Objection against the .LGBT application based on its intended use of one of the recognizable community designations for the gay community<sup>2</sup>. While this objection did not prevail, it did not prevail because the expert presumed that the gay community would have control of another TLD, .GAY. Having a .GAY community application that served the community would mean that the application for .LGBT would not cause harm therefore the objection did not prevail, and .LGBT was allowed to move forward.

dotgay LLC had assumed that this information would be provided to the CPE panel. This document can be found at: <http://newgtlds.icann.org/sites/default/files/drsp/25nov13/determination-1-1-868-8822-en.pdf>

Following are a few quotations from the judgment that highlight this situation:

*22. The legitimate interests of the gay community can only legitimize a claim to a gTLD that is exclusively linked to the gay community. A community that represents the legitimate interests of its members can claim a safe and secure position in the society and on the market, and this holds particularly for a community that represents the legitimate interests of a minority. Its claim to a safe and secure position in the society and on the market includes a safe and secure position in the internet. Therefore, while the gay community cannot exclude competition, it could file and has filed its own application for a gTLD that is designed to serve the gay community and to operate accordingly: dotgay's community application for the string .gay.*

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<sup>1</sup> <https://www.un.org/en/ecosoc/>

<sup>2</sup> [http://en.wikipedia.org/wiki/LGBT\\_community](http://en.wikipedia.org/wiki/LGBT_community) "The **LGBT community** or **GLBT community**, commonly referred to as the **gay community**, is a loosely defined grouping of **lesbian**, **gay**, **bisexual**, and **transgender** (**LGBT**) and LGBT-supportive people, organizations, and **subcultures**, united by a common **culture** and **social movements**."

*23. ILGA has shown a likelihood of material detriment to the legitimate interests of the gay community if there is no gTLD designed to serve the gay community and to operate under appropriate principles that grant safety and financial rewards for the gay community. ILGA has not proven that other gTLDs with names that can also be targeted to the gay community are likely to cause material detriment to the legitimate interests of the gay community or a significant portion thereof. They can only cause a certain amount of competition, and Afiliis has convincingly argued that there is a legitimate interest in targeting the gay community without belonging to it or without belonging to the portion of it that supports the string .gay. A coexistence of an "official" gTLD of the gay community and another "unofficial" gTLD is no material detriment to the legitimate interests of the gay community.*

Best regards,



Jamie Baxter  
Vice President of Marketing  
dotgay LLC