

EXHIBIT I

.JOBS APPLICATION AND REGISTRATION AGREEMENT

This Application and Registration Agreement (the "Agreement") sets forth the terms and conditions of your application for, registration of and use of any .jobs domain name. By applying for, registering and/or using a .jobs domain name, you represent that you have read and agreed to be bound by all terms and conditions of this Agreement, including all of its Appendices, and any rules or policies that are or may be published by Employ Media LLC d/b/a .jobs. You acknowledge that .jobs may modify this Agreement as provided herein.

In this Agreement, "Company" refers to the employer entity which will be the listed registrant of the .jobs domain which is the subject of this Agreement, except as otherwise indicated, "you" and "your" refer to the Company and/or the person applying for the .jobs domain on behalf of the Company and/or the Agent (as defined in Section 12, Agency) applying for the .jobs domain on behalf of the Company, and "we," "us" and "our" refer to Employ Media LLC d/b/a .jobs.

1. Use of Your Information

As part of the application and registration process, you are required to provide certain information to us, including information provided to us for verification of your qualification as an applicant (see Appendix A) and qualification of your requested domain name (see Appendix B) (collectively, "Information"). We reserve the right to request additional Information at any time during the application process or during the term of registration, including information regarding your use of a .jobs domain such as screen shots (also "Information"). The Information will be used by us in performance of the obligations, promotion and duties of the .jobs registry, including as set forth herein regarding verification, and may be made publicly available, as required by ICANN or pursuant to registry operation. You consent to the use, copying, reproduction, distribution, publication, modification, and other processing of your Information, your .jobs domain and any website resolving at your .jobs domain by .jobs and our designees and agents in a manner consistent with .jobs' obligations under this Agreement and our policies and procedures for maintaining and operating the .jobs registry, including promotion thereof. You consent to use of the Information for the purposes set forth above, and irrevocably waive any and all claims and causes of action you may have arising from such disclosure or use of your Information by us.

You acknowledge that providing false, fraudulent or inaccurate Information or willfully failing to update Information promptly will constitute a material breach of this Agreement subject to the remedies set forth in Section 8, Breach and Revocation. If you license use of a domain name to a third party, you are nonetheless the holder of record of the domain name registration and are responsible for providing your own Information.

2. Dispute Policy

In the event of a dispute with a third party regarding your application, registration, or use of any .jobs domain name, or your compliance with the terms of this Agreement, you will submit to proceedings under ICANN's Uniform Domain Name Dispute Policy, your registrar's dispute policy and/or the .jobs Domain Name Dispute Policy (the "jDRP"), whichever is applicable. The jDRP is subject to modification in .jobs' sole discretion, at any time.

3. .jobs Policies

From time to time we and/or the .jobs policy delegate, the Society for Human Resource Management (“SHRM”), will set forth policies, procedures and/or guidelines governing applications for .jobs domains, registrations of .jobs domains and use of .jobs domains (“Policies”). Policies are available upon request and may be posted at the .jobs home page. At all times during your application for and registration of your .jobs domain(s), you will comply with all Policies. .jobs and/or SHRM may modify the Policies in their sole discretion, at any time.

4. .jobs Restrictions

.jobs applications must be submitted by you as set forth in Appendix A – Applicant Qualifications. You represent and warrant that, upon application for a .jobs domain and during the registration thereof, you comply with the requirements set forth in Appendix A. .jobs applications will only be accepted for .jobs domains which are included in a product category set forth in Appendix B – Product Categories. You represent and warrant that, upon application for a .jobs domain and during the registration thereof, you comply with the requirements set forth in Appendix B. You acknowledge that .jobs domain names which are not available, as set forth in Appendix C – Reserve List, are either on registry-reserve or otherwise reserved from registration by you. .jobs domains may only be used as set forth in Appendix D – Usage Policy. You represent and warrant that during the term of registration of your .jobs domain you will use the .jobs domain in compliance with the Usage Policy.

5. Limitation of Liability

.jobs WILL NOT BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY LOSS THAT MAY OCCUR DUE TO OR IN CONNECTION WITH (A) ANY FAILURE TO REGISTER OR REGISTRATION OR LOSS OF REGISTRATION OF A DOMAIN NAME; (B) THE USE OF A DOMAIN NAME; (C) DELAYS OR INTERRUPTIONS OF ACCESS TO .jobs’ REGISTRATION SYSTEM; (D) THE FAILURE TO DELIVER OR DELIVERY OR MISDELIVERY OF DATA BETWEEN YOU AND .jobs; (E) EVENTS BEYOND .jobs’ REASONABLE CONTROL; (F) THE PROCESSING OF ANY APPLICATION; (G) THE PROCESSING OF ANY MODIFICATION TO THE RECORD ASSOCIATED WITH A DOMAIN NAME; (H) REJECTION OF YOUR APPLICATION FOR A .jobs DOMAIN NAME; OR (I) THE APPLICATION OF ANY DISPUTE OR OTHER APPLICABLE POLICY. FURTHER, .jobs WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS AND LOST DATA) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF .jobs HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL .jobs’ MAXIMUM LIABILITY EXCEED THE WHOLESALE COST OF THE DOMAIN WHICH IS THE SUBJECT OF ANY CLAIM FOR DAMAGES OR OTHER COMPENSATION (AS SET BY .jobs AT THE TIME OF YOUR PURCHASE OF, OR APPLICATION FOR, SUCH DOMAIN NAME). IN JURISDICTIONS WHICH DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, OUR LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW.

6. Indemnification

You agree to defend, indemnify and hold harmless .jobs and our affiliates, business partners, directors, officers, employees and agents, from and against any and all claims, actions, losses,

damages, expenses and costs, including attorneys' fees and expenses, arising out of or relating to (i) your application for and/or registration and/or use of any domain name, (ii) any breach by you of this Agreement, including Policies, representations and/or warranties herein and any Appendix hereto, or (iii) any third party claim, action, or demand related to any domain name or the use thereof.

7. Representations and Warranties

You represent that, to the best of your knowledge and belief, neither the application for or registration of any domain name nor the manner in which it is directly or indirectly used infringes or violates the legal rights of any third party. You represent and warrant that all information provided by you in connection with your registration is complete and accurate and that you have full capacity and authority to enter into this Agreement. Other representations and warranties made by you are set forth elsewhere in this Agreement. .jobs makes no representations or warranties of any kind in connection with this Agreement.

8. Breach and Revocation

In the event of a breach by you of any provision of this Agreement, including representations and/or warranties herein, Policies and Appendices hereto, .jobs shall have the right in its sole discretion to delete, cancel, revoke, suspend, place on hold or lock, transfer or modify your registration of the domain name related to the breach (including by modifying your DNS settings), without prior notification to you and without regard to any period of time remaining in your registration term, including any future year(s) of registration you have already purchased.

You acknowledge that we reserve the right to conclude that your conduct is in violation of the foregoing provisions and/or in breach of any provision of this Agreement, and we may arrive at such a conclusion even if it is based upon our opinion or mere suspicion or belief, without any duty to prove that our opinion or suspicion is well-founded, and even if our opinion or suspicion is proven not to be well-founded. Any action taken by .jobs under this section may be taken by .jobs in its sole discretion, without notice to you, without any obligation to refund fees paid, and otherwise without liability to you or to any third party for any such action.

9. Governing Law

This Agreement, your rights and obligations and all actions contemplated by this Agreement shall be governed by the laws of the United States of America and the State of Ohio, as if the Agreement were a contract wholly entered into and wholly performed within the State of Ohio, and without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of Ohio to the rights and duties of the Parties. Any action to enforce this Agreement or any matter relating to your use of a .jobs domain may be brought only in the United States District Court for the Northern District of Ohio (Eastern Division) or in the state courts of Cuyahoga County, Ohio, and each party to this Agreement expressly and irrevocably consents and submits to the jurisdiction and venue of such Courts, and courts of appeal therefrom, in connection with any such legal proceeding.

10. Modifications

You agree that .jobs may revise, amend or modify the terms and conditions of this Agreement, including Policies and any Appendix hereto, in its sole discretion. Any such change will be binding and effective immediately on the date on which the revised Agreement is posted on the .jobs web site, or, if notification of such changes is made available to you only by e-mail or United States mail, upon your receipt thereof. You agree to review the .jobs web site periodically to keep track of any such changes to the Agreement. If any such change constitutes a materially adverse change to you, you may request that your domain name registration be cancelled (so long as you are not in breach of this Agreement). You agree that such cancellation will be your exclusive remedy in such event. Except as otherwise expressly provided above, no provision of this Agreement, including Policies and any Appendix hereto, may be amended or modified by you except by means of a written document signed by .jobs.

11. Miscellaneous

This Agreement, together with all Policies, all Appendices hereto, and all amendments or modifications, constitutes the complete and exclusive agreement between you and .jobs regarding the subject matter hereof, and supersedes and governs all prior proposals, agreements, or other communications.

Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties. The failure of .jobs to require your performance of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by .jobs of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and such provision will be amended or construed so as to render it valid and enforceable and achieve, to the greatest extent possible, the objectives and intent reflected in the original provision. The provisions of Sections 1, 2, 5, 6, 7, 9 and 11 of this Agreement shall survive the termination or other expiration of this Agreement.

12. Agency

An application for a .jobs domain may be submitted by a person or entity acting as an agent of a Company (an "Agent"). If an Agent submits an application for a Company, the Agent represents and warrants that (i) the Agent has the actual authority to submit the application on behalf of the Company; and (ii) all Information submitted by Agent is accurate and complete and complies with the terms of this Agreement. Agent acknowledges that the Company is and will be the registrant of the .jobs domain. We reserve the right to request additional Information of Agent at any time during the application process or during the term of registration, including but not limited to contact information for the Company. We further reserve the right to contact the Company directly regarding actions of the Agent or any matter relating to compliance with the terms and conditions of this Agreement. Agent agrees to defend, indemnify and hold harmless .jobs and our affiliates, business partners, directors, officers, employees and agents, from and against any and all claims, actions, losses, damages, expenses and costs, including attorneys' fees and expenses, arising out of or relating to any claim by Company based upon the acts or omissions of Agent regarding (i) application for and/or registration and/or use of any domain name, (ii) any breach of Company's obligations under this Agreement, including Policies, representations/warranties and any Appendix hereto, or (iii) any third party claim, action, or demand related to any domain name or the use thereof.

13. Start-Up Period

You will comply with all Policies and procedures set forth by .jobs regarding applications submitted during the .jobs start-up period, including but not limited to the provisions set forth in Appendix F.

Appendix A - Applicant Qualifications

The .jobs Top-Level Domain is a restricted name space. You may apply for and obtain a .jobs registration in the companyname product category (see Appendix B) only if the following criteria are met:

1. You are tasked with hiring or other human resources (“HR”) duties on behalf of the Company, or are authorized to act on behalf of the Company with regard to .jobs registrations;
2. You are authorized by the Company to purchase the .jobs registration for which you have applied on behalf of the Company;
3. You and the Company agree to abide by the terms of this Agreement, including all Policies and Appendices;
4. You and the Company agree to abide by the SHRM Code of Professional Ethics, a copy of which is linked/attached to Appendix E of this Agreement; and
5. You represent and warrant that the above is true and correct.

Appendix B - Product Categories

Applications for .jobs registrations are accepted only in the category(ies) listed below:

Applications will be accepted only for domains in the “companyname” category. For .jobs domains in this category, the Company (the registrant of the .jobs domain name) must be an employer. The companyname category consists exclusively of those names which are, or include:

1. The legal trade name of the Company, or
2. A name by which the Company is commonly known.

By submitting an application for a .jobs domain, you represent and warrant to us that the string which comprises the requested domain name is, or includes, the legal trade name of your Company or a character string by which your Company is commonly known.

It is your burden to provide information evidencing the trade name or commonly known name of the Company. You represent and warrant that any information you submit to us for the purposes of verifying a trade name or a commonly known name is true and accurate and refers to the Company.

We will determine, in our sole discretion and in our sole judgment, whether or not an application for a .jobs domain name qualifies under these requirements. In making such a determination, we may obtain information from third-party sources. We may contact you (either directly or through your registrar) for additional information regarding the Company’s qualifications hereunder. Failure to respond within a reasonable period of time to our request for additional information will be a material breach of this Agreement and may result, in our sole discretion, in rejection of your application.

We will determine the level of information and/or proof required for verification of either a trade name or a commonly known name, and may employ different standards for each. For example, we may establish a higher standard of proof for applications based upon “commonly known” status as compared to “trade name” status. We reserve the right to establish all standards regarding information submitted for verification.

We are the sole entity which has the authority to verify any application under these requirements. All of our decisions relating to verification are final and unappealable.

We reserve the right to add, modify and/or delete product categories within the .jobs Top Level Domain in our sole discretion, without prior notification thereof.

You are under a continuing obligation, during the term of your .jobs registration, to maintain your trade name/commonly-known name. In the event Company’s trade name or commonly known name changes, ceases to be used or is otherwise modified during the term of your registration, you must notify us immediately and comply with all of our reasonable requests regarding provision of current verification information. In the event that a change, modification or cessation of use of a trade name or a commonly-known name results in non-compliance with any term or provision of this Agreement (e.g., if your .jobs domain no longer reflects Company’s trade name or commonly-known name), we may deem such non-compliance, in our sole discretion, a material breach of this Agreement.

Appendix C - Reserve List

Certain product categories are either registry-reserved or otherwise reserved in the .jobs Top Level Domain. Domain names reserved in any reserved product category are not available for registration in the company name category (and we will not accept an application for such domain names), even if a term by which your Company is legitimately known is contained within such a product category.

.jobs reserved categories include, but are not limited to:

1. Occupational and industry identifiers (e.g., nursing.jobs, accounting.jobs, recruiting.jobs)
2. Geographic identifiers (e.g., cityname.jobs, regionname.jobs, zipcode.jobs)
3. ICANN-reserved words (e.g., country.jobs, icann.jobs, iana.jobs)
4. Registrar-reserved words (e.g., enom.jobs, namesbeyond.jobs)
5. Other generic identifiers (e.g., recruit.jobs, blow.jobs)

We reserve the right to add terms to one or more of our reserve categories at any time and in our sole discretion, including after you submit an application for them. We also reserve the right, in our sole discretion, to add, delete and/or modify existing or new categories.

Appendix D - Usage Policy

If used at all, your .jobs domain in the companyname product category (see Appendix B) must be used for human resources (“HR”) related purposes, and particularly for the purpose of

promoting the HR interests of the Company (i.e., the Company which is the listed registrant for the .jobs domain registration).

You are not obligated to use your .jobs domain in the companyname product category. If you do use your .jobs domain in the companyname product category, however, you may not:

1. Use your .jobs domain to post third-party information, such as job listings for other companies. This means that you can not have a job board at your .jobs domain which contains listings for jobs outside of your Company.
2. Use your .jobs domain inconsistently with the SHRM code of ethics, a copy of which is linked/attached below.
3. Use your .jobs domain for any purposes which are prohibited by the laws of the United States or the jurisdiction(s) in which you do business or any other applicable law.
4. Use your .jobs domain for any purposes or in any manner which violate a statute, rule or law governing use of the Internet and/or electronic commerce (specifically including “phishing,” “hacking,” distributing Internet viruses and other destructive activities).
5. Use your .jobs domain for unsolicited email (e.g., spam).
6. Use your .jobs domain to promote or engage in (i) activities designed to or which defame, embarrass, harm, abuse, threaten, slander or harass third parties; (ii) unlawful activities, or activities designed to or which encourage unlawful behavior by others, such as hate crimes and terrorism; (iii) activities that are tortious, vulgar, obscene, invasive of the privacy of a third party, or racially, ethnically, or otherwise objectionable; (iv) activities designed to impersonate any third party or create a likelihood of confusion in sponsorship, origin of products or services or identity of any party; and (v) activities designed to harm minors in any way.

Furthermore, you may not:

7. Register or use your .jobs domain for the purpose of reselling it or transferring it.

You are responsible for the usage of your .jobs domain at all times during the period of your registration, including instances wherein you have licensed usage to a third party or otherwise allowed third party usage of your .jobs domain. Third party usage will be dealt with as if it was your usage.

We have complete enforcement rights over your use of your .jobs domain name. If you violate our usage policy, you will be in material breach of this Agreement, and along with all other rights and remedies we have under this Agreement with respect to such a breach, we reserve the right to revoke, suspend, terminate, cancel or otherwise modify your rights to your domain name.

By “use,” “usage” or “using” your domain name we mean any use involving the Internet, including but not limited to website(s) and/or any pages thereof resolving at your domain, either directly or indirectly (including redirection, framing, pop-up windows/browsers, linking, etc.) and email distribution and/or reception.

Appendix E - SHRM Code of Ethics

Available at <http://www.shrm.org/ethics/>.

Appendix F - Start-Up Period

During the Start-Up Period, from June 19, 2005 until on or about August 19, 2005, applications will be accepted only on behalf of employer organizations which have been legally in business under the trade name/commonly known name claimed in an application and legally employing at least one person since at least January 1, 2005. By submitting an application during the Start-Up Period, you represent and warrant that the Company (i) has been legally in business under the trade name or commonly known name claimed in the application as of at least January 1, 2005; and (ii) is currently an employer and has been an employer as of at least January 1, 2005. Upon our request, you will submit information to us evidencing your status as set forth above.

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EXHIBIT J

December 4, 2009

David Giza
Senior Director, Contractual Compliance, ICANN
4676 Admiralty Way || Suite 330
Marina Del Rey, CA 90292

Re: Draft first response for ICANN contractual compliance review questions for Employ Media

Dear David,

We are in receipt of the "ICANN Contractual Compliance Review Questions for Employ Media" (the "Questions") which you sent to Ray Fassett on November 24, 2009.

We welcome the opportunity to discuss these Questions with ICANN, to give ICANN an idea as to where we are headed with our current beta test of product categories, and to educate us all regarding our Sponsored TLD registry agreement and our interpretation of relevant provisions.

We will address each question in detail in this document. However, we would like to start by giving you a brief overview of what we are currently doing. We also think it's important to address the spirit and scope of a Sponsored TLD generally, and take a look at the provisions of our registry agreement which we think control our current activities, with specific regard given to the nature of authority delegated to Employ Media from ICANN. Then we will address all of the Questions.

OVERVIEW OF OUR CURRENT ACTIVITIES

In response to Community input and feedback and with cooperation and support of our Sponsoring Organization, the Society for Human Resource Management (SHRM), we are beta testing certain product categories of .jobs domain names, such as geographic.jobs, occupation.jobs, etc., as we are enabled to do under our registry agreement. These product categories are in addition to the companyname.jobs product category. To be clear, there is no change or amendment to the companyname product category, or the business rules which govern that category.

As expressly authorized in our registry agreement, domains in these non-companyname product categories are created, through an ICANN-accredited registrar, with Employ Media as the registrant of record. They have not been allocated, and there is no intent under the current beta test to allocate them. Creation of these names is in full compliance with the Policy which governs .jobs domain registrations; namely, the Policy which is contained in the .jobs Charter. The Charter sets rules regarding who may qualify to request a .jobs domain registration. Employ Media complies with such rules. This Policy (as contained in the Charter) is not being changed in any way, and we have no current intent to make any changes to such.

By comparison, the registry agreement contains reference to many business rules for the .jobs sTLD, including rules regarding the companyname product category. These rules are not Policy. The nature of

a Sponsored TLD is that ICANN delegates to the registry operator (and sponsor) many areas of responsibility, including development and enforcement of business rules. Such development and enforcement is at the discretion of the registry operator and sponsor, acting in the interests of the Community. As stated, the Policy has not changed. Our business rules continue to be developed, hand in hand with our sponsor SHRM. While indeed we have not changed the business rules governing companyname.jobs registrations, we have, in conjunction with SHRM, added product categories in this beta test.

We take contract compliance extremely seriously, as it is our MANDATE to be ICANN's best sTLD. In this light, it is of crucial importance to identify which areas of inquiry are within the scope of the registry agreement terms (and thus properly within a compliance inquiry), and which areas, while being of great interest and importance to the Community and the Internet community as a whole, are not within the scope of the agreement and thus not properly within the scope of a contractual compliance inquiry. One of the benefits to ICANN of a Sponsored TLD is that ICANN has delegated much authority under the agreement; as such, it is entirely appropriate for ICANN to pass along inquiries outside the scope of the agreement (or squarely within delegated authority) to the sponsor and registry operator, where such inquiries properly belong. An underlying assumption of sTLD's is that the Sponsor has knowledge of the Community which ICANN does not, which justifies delegation of certain authority, especially as such relates to business rules. Thus many inquiries which appear to a third party to be fodder for ICANN compliance are actually inquiries for the sponsor and the registry operator. We (and SHRM) are better positioned vis-à-vis the Community to deal with such inquiries, so long as the core of the registry agreement (such as the Charter) remain in compliance.

We are aware that certain third parties have cherry-picked provisions out of the agreement in an attempt to twist the nature and intent of the agreement towards their own ends. **We very strongly believe that we are in complete compliance with all registry agreement terms.** Please let us take you on an overview of what we feel are the most relevant provisions of the agreement, including the over-all scope of a Sponsored TLD.

**OVERVIEW OF THE NATURE OF A SPONSORED TLD
AND THE PROVISIONS WE FIND CONTROLLING TO THE QUESTIONS**

1. **.jobs is a SPONSORED top level domain, differentiated from an unsponsored TLD in that a substantial degree of autonomy and authority is transferred from ICANN to the registry operator and sponsor; in our case, in the registry agreement ICANN has delegated much policy-making authority to Employ Media and SHRM.**

Vint Cerf perhaps said it best in a recent deposition given during the .xxx Independent Review Process:

Q: What is the difference – we've had a lot of testimony this week but just so we are on common ground, what's the difference between a sponsored top level domain and a generic or unsponsored top level domain?

A: So, when the concept of sponsored top level domain arose, the difference is actually quite important because in the sponsored TLD, it is the intent of ICANN to remand to the operator of the sponsored TLD more policy-making authority than would normally be remanded to the operator of the generic top level domain. So a substantial degree of autonomy and authority is transferred to the sponsor of a sponsored TLD.

The dot museum is an example. [A sponsor] is responsible for making decisions about which entities had museums and should be part of or can apply for registrations in dot museum. ICANN doesn't get involved in any of those decisions. We remand that authority and responsibility to the sponsor.

ICANN itself reinforces the position that the scope and intent of a Sponsored TLD is different from an unsponsored TLD in that policy-formulation responsibilities and operations are delegated to the sponsor, and notes that such is done so under the proviso of a Charter:

Generally speaking, an unsponsored TLD operates under policies established by the global Internet community directly through the ICANN process, while a sponsored TLD is a specialized TLD that has a sponsor representing the narrower community that is most affected by the TLD. The sponsor thus carries out delegated policy-formulation responsibilities over many matters concerning the TLD.

A Sponsor is an organization to which is delegated some defined ongoing policy-formulation authority regarding the manner in which a particular sponsored TLD is operated. The sponsored TLD has a Charter, which defines the purpose for which the sponsored TLD has been created and will be operated. The Sponsor is responsible for developing policies on the delegated topics so that the TLD is operated for the benefit of a defined group of stakeholders, known as the Sponsored TLD Community, that are most directly interested in the operation of the TLD. (<http://www.icann.org/en/tlds>)

The .jobs agreement was drafted, and is currently being enforced, under the spirit, intent and purpose of such authority delegation.

2. Much has been delegated to Employ Media and SHRM under the registry agreement, and such delegated matters are not proper subject matter for a contractual compliance review.

Consistent with the spirit of delegation in a Sponsored TLD, much authority and autonomy has been delegated to Employ Media and SHRM. As set forth in Part II of Appendix S, the "...following areas of responsibility for development of policies for the Sponsored TLD are delegated to the Registry Operator...

1. Establishment of naming conventions to be used in the Sponsored TLD.

2. 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.
3. 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.
4. Performance of Eligibility and Name-Selection Services (ENS Services)...
5. Mechanisms for enforcement of the restrictions in items 1, 2 and 3...
...
9. Matters concerning the operation of the registry for the Sponsored TLD.
...
14. Uses and practices by registrants with respect to Registered Names.
15. Procedures and schedule for the start-up of the Sponsored TLD, provided they are consistent with Attachment 8.”

Having a clear understanding of the nature of delegated authority is important to understanding the scope of what is, and what isn't, properly within the scope of a contractual compliance review of the registry agreement. If the subject matter at issue has been delegated, then contractual compliance review at the ICANN/registry agreement level is not proper, nor should such be desirable for ICANN. ICANN delegated such matters for a reason, and should not have to deal with inquiries regarding same. Such matters are more appropriately handled at the Sponsor level. (As a side note, we assure ICANN that SHRM has received all of the promulgated questions (except for those in Question 5 related to registrars) and more over the history of the .jobs sTLD, and has not only responded to same, but has taken such input to heart in advising us towards our current beta tests.)

3. **Consistent with such delegation of authority and autonomy, Employ Media is contractually allowed to register names to itself.**

Hardcoded into Section 7.1(b) of the registry agreement is the acknowledgement that the terms of the registry agreement “...shall not preclude Registry Operator from registering names within the TLD to itself through a request made to an ICANN-accredited registrar.”

4. **The only Policy which is governed by contractual compliance is contained within the Charter, and the Charter speaks only to WHO can apply for a .jobs domain, NOT to WHAT the domain is or what it can be used for; .jobs is in complete compliance with the Charter.**

While the third parties who have posed questions to ICANN may assume that many .jobs business rules are policies, for the purposes of contractual compliance there is only one Policy, and that is what is contained in the .jobs Charter.

The Charter states, in pertinent part (summarized below except where quoted):

I. The .jobs Community is the international human resource community, and .jobs has been established to serve the needs of this Community.

II. "The .JOBS TLD will be managed by Employ Media in accordance with (i) the provisions of this charter (the "Charter"); (ii) the interests of the Community; and (iii) policy directives from The Society for Human Resource Management ("SRHM"), as "Sponsor."

III. "SRHM shall act as policy delegate responsible for establishing registration requirements for second-level domains in the .JOBS TLD, consistent with this Charter and in the interests of the Community."

IV. "The following persons may request registration of a second-level domain within the .JOBS TLD:

- members of SHRM; 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..."

V. "The Sponsor may establish stricter requirements for permitting registrations."

VI. "Employ Media will promptly convey to ICANN any modifications that are made to the definition of the Community as determined by the Sponsor."

5. SHRM, who is in the best position vis-à-vis the Community, is completely on board with what we're doing.

The crux of a Sponsored TLD is that the Sponsor is in the best position to evaluate the needs of the Community, and further in the best position regarding rules relating to the sTLD. SHRM is completely aware of our beta tests, and is on record as indicating that as far as SHRM is concerned, Employ Media is in complete compliance with all relevant agreements. Furthermore, and more importantly, SHRM backs the beta tests, and approves of the actions Employ Media is taking. SHRM does this in its capacity as a representative of hundreds of thousands of members of the Community. It is noteworthy that SHRM has received input from a broad and diverse group of stakeholders in the Community, including the third parties we assume to have submitted the inquiries at hand, and has decided that the beta tests, as currently enacted, are both in compliance with and serve the interests of the Community. We submit that the word of SHRM here, as Sponsor of the Community, speaks louder than any other voice relating to the compliance matters at hand, particularly as such relate to intent and purpose, and clearly louder than the subgroup of potentially conflicted parties who have likely submitted inquiries to ICANN.

6. **Appendix S is a hodgepodge of provisions, many of which conflict, but several of which expressly authorize Employ Media to take the steps we have taken in the beta tests; while the enforceability of Appendix S may be in doubt, we believe that it stands as the best reinforcer of Employ Media's ability to implement what we are doing.**
 - A. **Appendix S contains express language which allows us to create new product categories of domain names beyond and in addition to the "companyname" product category, and further allows us to have occupational, industry and geographic domains registered in our name.**

From App. S Part IV. Start-Up Plan:

"The Registry Operator may from time to time introduce new categories of domain registrations, consistent with the Charter and in compliance with the provisions of this Sponsored TLD Registry Agreement. Registry Operator reserves the right to introduce additional start-up plan(s) for any such introductions."

From App. S Part VII from the "Community Value Criteria":

"Certain groups of domains will be reserved, such as, e.g., a list of occupational identifiers (e.g., the U.S. Bureau of Labor Statistics list of SOC occupations), industry identifiers (e.g., healthcare.jobs) and certain geographic identifiers (e.g., northeasternohio.jobs). These restricted lists are in addition to the restriction that .jobs domains comprise only trade names or commonly-known names (reserved list domains will be registered to the Registry Operator in the registry database to reflect their status as reserved names)."

As an aside, please note that once names are registered, how such name are used is not governed by the terms of the registry agreement, and as such, is not proper subject matter for a contractual compliance review.

- B. **Appendix S, and particularly Part VII thereof, must be taken in context; the statements made in Part VII were true when they were made, and are still true and correct - but running an sTLD is a dynamic process, which contemplates adjustment, which is why the ability to run the sTLD, and implement adjustments, has been delegated.**

Section 2.1(b) of the registry agreement states that "[t]he factual statements contained in Registry Operator's application for the TLD, or made by Registry Operator in negotiating this Agreement, were true and correct in all material respects at the time the application was submitted to ICANN and are true and correct in all material respects as of the date this Agreement is entered into set forth above."

Employ Media is in compliance with this provision. Even with respect to certain language allegedly cited against us (such as portions of Part VII which relate to the companyname product category), the statements made were true at the time and remain true today. For example, the language regarding companyname registrations is still true and unchanged under the beta tests; we have, however added

product categories of domain names, as we are contractually allowed to do. But as noted, such addition does not modify or change or in any way make the statements regarding the companyname product category untrue.

Regardless, Part VII of Appendix S must be taken in the context of the dynamic nature of the business of running an sTLD. The language in Part VII, which was taken directly from the .jobs sTLD application, was never intended to restrict the registry operator or the sponsor from acting in the interests of the Community, including adjusting business rules as necessary to improve Community benefit and make the sTLD more relevant and useful to the internet as a whole. Rock-solid, unchanging Policies are set forth in the Charter. Beyond the Charter, the registry agreement specifically delegates autonomy to the registry operator to make the kinds of adjustments deemed necessary or desirable.

Taking a hard-line stance regarding language such as the companyname restrictions in Part VII creates friction and interpretation nightmares with almost all other provisions in the registry agreement, for the majority of the agreement embraces the ability to change, so long as such change is done at the approval of the Sponsor, who is in the best position to make such decisions. We submit that the language in Part VII which we believe to be the core of the third party inquiries received by ICANN needs to be interpreted within the context of the entire agreement, and not cherry-picked and taken out of context.

C. A close read of the registry agreement may lead to an interpretation that Part VII of Appendix S is really only dicta.

We are not necessarily promoting this interpretation of Part VII of Appendix S, as we believe this Part contains language which expressly allows us to take the actions we are currently taking under the beta tests, but a close read of the registry agreement leads one to believe that Part VII may actually be no more than dicta.

Part VII is a direct cut and paste from portions of the .jobs application. Specifically, most of the language cited in this discussion comes from the "Community Value Criteria" section of the application. The Community Value Criteria were "Protecting the rights of others" and "Assurance of charter-compliant registrations and avoidance of abusive registration practices." As such, the language contained therein was intended to address these concerns, and not necessarily to become unchangeable contract restrictions. Indeed, multiple ways of "protecting the rights of others" and "assur[ing] charter-compliant registrations and avoidance of abusive registration practices" we proffered in the response (outside of, or more properly, in addition to, the companyname language), the majority of which (if not all) are still in practice today. Note that under the beta tests we retain the companyname business rules and all other actions we are taking to meet the community value criteria. We submit that the addition of more product categories, and the manner in which we are implementing such product categories, does nothing to negate our compliance with the community value criteria. If anything, choosing to not allocate the names in such product categories likely increases our compliance by decreasing the likelihood of breaches of the community value criteria.

The awkward fit of Part VII into the registry agreement is illustrated by the nature of its reference, or lack thereof, in the main (and all other) parts of the registry agreement. Consider that Appendix S itself, in its entirety, is referenced only three times in the main body of the contract: Section 1.3 (delegation of authority to registry operator consistent with the requirements of 3.1(g) and Appendix S), Section 3.1(d) (registry operator shall establish procedures for enforcing Charter restrictions, including reference to the Charter in Appendix S, a description of the sponsored community and of delegated authority), and Section 3.1(g) (obligating Employ Media to (i) publish standards, policies, procedures and practices, (ii) conduct policy-development in an open manner, (iii) maintain representativeness of policy development, and (iv) ensure the ability of third party input, all “as set forth in Appendix S”). Of these references, Section 3.1(g) comes the closest to enacting Appendix S, but only does so in the context of the four ((i) through (iv)) enumerated obligations. A close read of this section strongly implies that so long as the four obligations are met, the substance of Appendix S is immaterial. We, however, believe that Appendix S contains important material, such as the Charter, delegation of authority, etc. Part VII thereof, however, is a different matter.

Each other Part of Appendix S is referenced somewhere in the registry agreement, but Part VII is not. It seemingly stands on its own, unreferenced (except the three general Appendix S references noted above) and completely open to interpretation as to its applicability to the agreement as a whole. Taken in the context of how this Part was drafted (i.e., as part of the application significantly prior to drafting and negotiating the registry agreement), a position can be taken that Part VII contains no enforceable language relevant to the obligations set forth in the agreement, and as such is merely dicta.

While this may not be our preferred interpretation of Part VII, particularly as the Part contains language which expressly authorizes Employ Media to take the steps we are currently taking in the beta tests, it is notable that the internal contradictions inherent in the Part lend credibility to this interpretation. If, as connoted in the explanatory paragraph to Question #1, Employ Media is truly limited to .jobs registrations as set forth in the companyname product category, why was the later contradictory language included regarding our ability to register such very names? Further, why was additional contradictory language regarding additional product categories contained in another Part of Appendix S and further contradictory language regarding Employ Media’s ability to register domains in its own name contained in the main body of the agreement? It is generally not the intent of drafters, nor good contract practice, to include contradictory provisions. While the intent of the drafters may not be germane to contractual interpretation, the presence of contradictory terms and ambiguous language certainly is. While general rules of contractual interpretation may favor the party against which such language in being enforced (giving Employ Media favor here), we don’t believe this compliance review should ever reach this point. Even if not dicta, Part VII is clearly of suspect enforceability for many reasons, which merely lends credence to our over-all theory of this compliance review; namely, that much has been delegated to Employ Media under the registry agreement, and viewing only the relevant contractual provisions, and reviewing only matters contained within the scope of such provisions, shows clearly that Employ Media is in compliance.

RESPONSE TO CONTRACTUAL COMPLIANCE QUESTIONS

Before we address each enumerated point and associated questions, there are several precursory statements to the Questions which must be addressed in order to place the Questions themselves in an appropriate light.

One precursory passage states:

When the sTLD was proposed to ICANN, its purpose as described in the response to the RFP and other relevant documents was to provide a simple, convenient and reliable way for job seekers to locate and access corporate career sites. For example, by entering www.HP.jobs a job seeker could be assured of getting directly to the relevant web site and, as a secondary benefit, of being assured that the jobs found at that address would be genuine jobs of the Hewlett Packard Company. This latter benefit has grown in importance as evidenced by the many cases of illegal access to commercial job seeker databases and instances of phishing and other scams.

We note that the purpose for the sTLD is clearly set forth in the Charter: it is established to serve the needs of the international human resource management community. Many within and outside the Community attempt to ascribe other purposes; some are correct, some are not. Certainly one purpose is, as stated in the precursory paragraph, to provide a simple, convenient and reliable way for job seekers to locate and access corporate career sites. The companyname product category is consistent with this. Our beta test use of other product categories is not inconsistent with this purpose, however. In fact, the beta test embeds functionality which results in the user being directed to the corporate careers site. As such, under the beta test job seekers will be assured of getting directly to the relevant corporate site and finding the posting to be a genuine job of the posting company, which is an exact match with this stated purpose.

The next precursory passage states:

As you know, Appendix S of the Registry Agreement between ICANN and Employ Media contains language (cited below) that appears to prohibit the use of geographic and occupational identifiers in conjunction with a .jobs extension. Certain addresses (cited below) appear to be used for job board listings. Some industry leaders believe this business practice violates both the spirit and the letter of the Registry Agreement with ICANN. Furthermore, there is some concern in the Community that if such addresses are to be awarded, the process should be open, transparent and fair, with all interested parties having an equal opportunity to apply and receive one or more of these designations.

Appendix S and the controlling registry agreement also contains language that explicitly allows Employ Media to register names to itself, including language which specifically allows Employ Media to register

such geographic and occupational identifiers in Employ Media's name. "Use" of such names is clearly within the authority delegated to Employ Media, and "use" is not prohibited anywhere in the registry agreement.

Whether or not any address is "used" as for "job board listings" is not a matter within the scope of the registry agreement. Again, "use" is not addressed in the registry agreement.

Many industry leaders, including SHRM, an international entity with hundreds of thousands of members who ICANN has acknowledged speaks for the Community, completely disagree. SHRM is on record as noting that our product category beta tests are well within the spirit and scope of all relevant agreements. Further, SHRM has worked hand-in-hand with us to get to this point. SHRM's voice is the controlling one here. We would like to know the identity of such "industry leaders" who have made such claims, and investigate whether they are biased and/or have a conflict of interests.

Such addresses are not being "awarded" or "allocated." They are being registered by Employ Media as expressly authorized in the registry agreement. Furthermore, it is our position that the determination as to whether, and as to how, to "award" or "allocate" such addresses, if ever made, is a decision which is entirely within the purview of Employ Media and SHRM, and not a matter of contractual compliance with ICANN. For example, our decision to "pre-validate" applicants for a domain name registration is a business rule and by no means a contractual condition placed upon us.

Enumerated Point #1

In its sTLD application, Employ Media states that ".jobs domain registrations are limited to the legal name of an employer and/or a name of or abbreviation by which the employer is commonly known." Appendix S to the Registry Agreement between ICANN and Employ Media, in Section VII, "Community Value and Criteria" further specifies that "prospective registrants must submit a Qualification Document (proof of status as an employer) which will be reviewed by Employ Media for approval prior to allowing registration."

How, if at all, do job boards or similar sites meet the criteria listed above to qualify for registration under the this sTLD?

The issue of "how" any applicant qualifies for registration is squarely within Delegated Authority #'s 1, 2 and particularly 5 ("Mechanisms for enforcement of the restrictions in items 1, 2 and 3..."). As such, this is not a matter of contractual compliance (i.e., we are in compliance merely by virtue of the obligation being delegated).

Further, the issue of "what" criteria is to be used is also squarely delegated to us, and thus not a matter of contractual compliance.

For informational purposes, please realize that the question is a misnomer in that there is no distinction between “job boards” or “similar sites” with regard to applications for domains under the companyname product category. The applicant is reviewed to determine whether such complies with the Charter and other business rules promulgated under the companyname category. If the applicant complies, the name is allocated, regardless of whether the applicant is a “job board” or not.

Please note that all company job-posting sites are “job boards,” and that all companyname product category domains are allocated with the presumption that the applicant will use the name as a job board. There are no distinctions, under the registry agreement, as to job board “types” or “similar sites.”

If ICANN is interested in the minutiae of how a “job board” or “similar sites” meet the criteria listed above to qualify for registration under the companyname product category of .jobs, here is how: an applicant agrees to the terms of a registrant agreement, in which the applicant represents and warrants that the applicant is a qualified applicant under the Charter. The applicant submits a Qualification Document for our review. This document can be any sufficient document, at Employ Media’s discretion. A d/b/a filing is usually sufficient, as is a web page submission under certain circumstances (e.g., is there sufficient indicia that the entity is a real employer, that the entity’s name is what they claim it to be, etc.). We review the submission and make a decision. For example, Monster Worldwide Inc. (which calls itself a “job board”) applied for monster.jobs, submitting the website monster.com as their Qualification Document. After reviewing monster.com, we concluded that Monster Worldwide Inc. appeared to be a qualified applicant, and appeared to be commonly known by the word “monster.” We thus approved the application and the name has been delegated for nearly 5 years now.

There are several matters to note with regard to the introductory paragraph of Enumerated Point #1.

Please note that the language quoted in the first sentence has been cherry-picked from Appendix S. As noted above, Appendix S contains other provisions which expressly provide the ability to create additional product categories of names.

Further, please note that the determination of whether an entity is “commonly known” is entirely at the discretion of Employ Media. This is squarely delegated to Employ Media, and is not properly the subject matter of any contractual compliance.

Enumerated Point #2

Employ Media appears as the registered name holder on the Whois record for several domain names registered under .jobs (see attached). These domain names use either geographic or occupational identifiers in conjunction with a .jobs extension.

What was the rationale behind these registrations?

How many other additional domain names, from the more than 8000 domain names

currently registered under the .jobs extension, were registered by Employ Media and for what purpose?

The “rationale” behind the registrations is not a matter under the registry agreement, which details Employ Media’s ability to register as many domains as we want and further details our ability to register geographic and occupational names in our name. As this is a Sponsored TLD, the rationale of the registry operator as to actions taken is not an area into which ICANN should really inquire. When ICANN made the decision to delegate authority, the decision was made with an understanding (and corresponding contractual language) that the registry operator and the sponsor (Employ Media and SHRM) will be acting in the interests of the Community and are in a better position than ICANN to identify rationales and act on same.

With that said, our rationale is set forth in Section 7.1(b) of the registry agreement which states that nothing in the registry agreement shall “...preclude Registry Operator from registering names within the TLD to itself through a request made to an ICANN-accredited registrar.” Our rationale is further set forth in Appendix S:

“Certain groups of domains will be reserved, such as, e.g., a list of occupational identifiers (e.g., the U.S. Bureau of Labor Statistics list of SOC occupations), industry identifiers (e.g., healthcare.jobs) and certain geographic identifiers (e.g., northeasternohio.jobs). These restricted lists are in addition to the restriction that .jobs domains comprise only trade names or commonly-known names (reserved list domains will be registered to the Registry Operator in the registry database to reflect their status as reserved names).”

Note that under our beta test that the occupational and geographic identifiers are registered in our name. Once the names have been registered, use of the names is not a contractual compliance issue, as rules regarding use have been completely delegated to Employ Media and SHRM.

The vast majority of names (almost all of them) which are registered to Employ Media are names which have not been registered under the companyname product category, and thus we echo our comments immediately above as to the purpose for which they were registered.

Enumerated Point #3

Employ Media’s domain name registration practices are unclear and potentially violate the Registry Agreement.

When registering the domain names attached to this message, did Employ Media intend to create a reserve list at the registry? If so, what steps would Employ Media propose to make this business practice more conspicuous in the Whois record for each of these domains?

Initially we address the statement "Employ Media's domain name registration practices are unclear and potentially violate the Registry Agreement." We disagree wholeheartedly.

As this is a registry agreement contractual compliance review, we are mindful that this question is limited solely to the domain name registration practices which are set forth in the registry agreement. As such, there is only the Charter. It is very clear. It is publicly available. We are in full compliance.

While we do not believe it is the case, some may argue that the existence of the companyname product category is a "registration practice" subject to registry agreement contractual compliance review. If it is, as far as the registry agreement and Employ Media's obligations there under, the "registration practices" are crystal clear and Employ Media is in complete compliance. Under the companyname product category, as set forth multiple times in Appendix S, registrations are limited to the legal name of an employer and/or a name of or abbreviation by which the employer is commonly known. This "registration practice" cannot be clearer. Application of these "registration practices," including factual, case-by-case determinations of "commonly known," are actions clearly delegated to Employ Media under the registry agreement. Furthermore, to the extent the statement in Enumerated Point #3 references use restrictions or other business rules set forth in the registrant agreement, such is not at all in the scope of the registry agreement and thus not pertinent to a registry agreement compliance review.

We cannot hide our disappointment in the language "and potentially violate the Registry Agreement." To a certain extent, ANY activity may "potentially" violate the agreement, in the same sense than any of ICANN's actions may "potentially" violate the agreement. We believe that we are in complete compliance with all terms of the registry agreement.

With regard to the first question of Point #3, while we are not exactly sure what the phrase "create a reserve list at the registry" means, we believe that matters regarding our "intent" are not a part of the registry agreement and thus not subject to contractual compliance review.

The question goes specifically to Employ Media's "intent" for a specific action. Under the registry agreement, intent on the part of Employ Media is not listed as an obligation or a part of any provision. The registry agreement relates to the registration of domain names, including Policy and, to some extent, business rules which govern the same. Employ Media's intent under the registry agreement is without import. The issue is whether Employ Media is in compliance when registering the names. We believe that we are in compliance.

To the extent ICANN is interested as to whether Employ Media's intent was "to create a reserve list at the registry," our answer is that our intent was to register names under the authority granted to us under Section 7.1(b) and under Appendix S, the latter of which expressly authorizes us to register in our name certain groups of domains in other product categories, such as occupational identifiers, industry identifiers and geographic identifiers. We note that regardless of the label given to such product categories in Appendix S (either "reserved list" or "restricted list"), the meaning is the same: Employ

Media can register them in Employ Media's own name. Beyond that, use of the names, or even intended use, is beyond the scope of the registry agreement, and thus not properly part of a contractual compliance review.

With regard to the second question of Point #3, we believe that the Whois records for each of the domains listed is in complete compliance with the Whois requirements set forth in the registry agreement. Additional "steps" to make something more "conspicuous" are not within the scope of the registry agreement, and thus not properly part of a contractual compliance review. The nature and purpose of a Whois record is to identify the registrant and provide contact information therefore. For each of the domains referenced in the compliance inquiry, and indeed for each domain registered by Employ Media, the nature, purpose and detailed requirements of the Whois are provided.

Enumerated Point #4

Some domain names registered by Employ Media do not resolve when typed into a web browser. Others, however, redirect the user to a new domain name that resolves into a website that contains employment information for a specific geographic area. For example, mexico.jobs is redirected to mx.jobs/www.

How does this domain name registration practice conform with the intent and purpose of the .jobs sTLD Registry Agreement?

There is a disconnect between the explanatory paragraph and the question posed. The explanatory paragraph relates to use of a domain name, that is, whether the name resolves, how it resolves and what content is provided when it resolves (of course, "use" is not part of the registry agreement at all, and is thus not subject to compliance review), while the question relates to "domain name registration practice." The two concepts must not be mixed up, as one may be governed by the registry agreement (registration practice, depending upon what registration practice) while the other is unequivocally not so governed (use matters).

As the antecedent basis for the question (use) doesn't sync with the subject matter of the question (registration practice), the question is difficult to interpret. However, we believe that the disconnect points to an extremely important distinction which third parties who have posed questions to ICANN do not understand, do not appreciate or at worst ignore for their own benefit: use of .jobs domain names is NOT governed by the registry agreement between Employ Media and ICANN. Even under the narrowest interpretation of Appendix S language relating to the companyname product category, such restrictions relate only to which names can be registered, not to what can be done with such names.

Under Part II of Appendix S, #4, ICANN delegated to Employ Media and SHRM all responsibility for development of policies and enforcement thereof for:

"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."

We note that the use stated in the explanatory paragraph is clearly within the scope of the Charter.

As such, use restrictions are not within the purview of the Employ Media/ICANN registry agreement, and ICANN should not get involved (and, indeed, contractually speaking cannot get involved) in such matters. This is particularly true with regard to a contractual compliance review, and there are no compliance issues with regard to use as such issues have been completely delegated.

Those third parties who post use questions to ICANN should be advised that such matters should be brought up with Employ Media and SHRM. We can inform you that we have heard such questions, and SHRM has heard such questions, and we and SHRM hand-in-hand have balanced such questions with diverging views from the Community, and together we have crafted the usage rules now in place, as amended from time to time. Inquiries regarding use restrictions and rules should be forwarded to SHRM. They are not part of the ICANN agreement.

Even if we were to entertain the question of how the stated use conforms with the intent and purpose of the .jobs registry agreement, and ignore the contractual limitations which vitiate the issue completely, our response would be that the intent and purpose of the .jobs registry agreement is to serve the international human resource community, as determined most appropriately by our sponsor SHRM, and that our beta test and the resolution and redirection identified in the explanatory paragraph is in conformity with that intent and purpose.

We note that much is made of the intent and purpose of the .jobs sTLD in the Questions and the explanatory notes to the Questions. We are reminded that, as per ICANN's own website, it is the Charter which "defines the purpose for which the sponsored TLD has been created and will be operated." As the stated intent in the Charter is broad enough to encompass multiple paths of implementation (such as eschewing pre-validation of applicants for post-validation (which would greatly increase our registration numbers, but at a price to the Community), straight auctions of all domains over multiple product categories, bulk sale or license to a single industry participant, etc.), it is incumbent upon us as the registry operator and SHRM as the sponsor to listen to a broad range of desires of the Community, and a broad range of interpretations of the intent and purpose of the .jobs sTLD, not just a narrow range of potentially self-serving interpretations as we believe motivate the third parties who have submitted the inquiries presently facing us. We and SHRM do not have the luxury of having such tunnel vision. And our decisions must be made within the construct of the registry agreement, and particularly the Charter.

Our actions in this regard are, with SHRM, to listen to members of the global HR Community with a goal to implement strategies within our control based upon credible feedback provided to us. Generally speaking, we refer to this as proper market due diligence. An example of this is a 2007 SHRM Community research report that provided market evidence of an increased reliance by the Community upon niche employment web sites, notably occupational niches and geographic niches. Through 2008 we chose to further investigate this based upon the Community feedback and to perform market due

diligence (as we would anticipate ICANN would expect us to do) directly from within our Community. This due diligence took the form of extensive communication with SHRM, reaching out to groups of strategic HR professionals (including in person meetings), various webinars, and numerous teleconferences. A common theme we heard was: Is there a way for the Community to share occupational and geographic domain names in .jobs? "Share the domains" – what an interesting concept coming directly from our Community. With SHRM at our side, we looked at this question closely, not least of which being our contractual obligations with ICANN, and determined it could be accomplished based upon many of the provisions cited in this response. DirectEmployers Association, a non-profit association of HR professionals from primarily global 1000 companies, provided an implementable plan for the Community to share domain names in .jobs. SHRM was (and is) in complete agreement that this plan was implementable and conformed to the .jobs Policy as contained in the Charter, and potentially could provide tremendous Community benefit.

To be clear – the intent and purpose of the .jobs sTLD, as such is limited to registry agreement contractual compliance only, is to serve the international human resource community. More specific intents and purposes beyond what is contained in the Charter are not within the purview of registry agreement contractual compliance. There are multiple intents and purposes of the .jobs sTLD contained within the basic intent and purpose in the Charter. "Narrow" interpretations of this intent and purpose which attempt to limit the over-all intent and purpose of the .jobs sTLD to merely companyname registrations do not accurately represent the scope and spirit of a Sponsored TLD and further represent only a fraction of intents and purposes ascribed the .jobs sTLD by diverse members of the Community. In other words, there are many more opinions regarding the true intent and purpose of the .jobs sTLD than alluded to in the explanatory paragraph. SHRM and Employ Media are better positioned than ICANN to interpret such opinions and implement same, so long as such are within the constraints of the registry agreement. Our beta tests are an implementation of .jobs which is in complete conformance with the intent and purpose of the .jobs sTLD as such is understood by the Community to the extent the Community can have a collective understanding. Such an implementation is squarely within the intent and purpose restrictions set forth in the Charter.

As such, the ultimate answer to Question #5 is that Employ Media's "practice" as set forth in the beta tests conforms with the intent and purpose of the .jobs sTLD Registry Agreement by (i) complying to the letter of the intent and purpose of the sTLD as set forth in the Charter, and (ii) by implementing a course of action which is interpreted by the Community as being within the intent and purpose of the .jobs sTLD and further that is desired by the Community.

Enumerated Point #5

It appears that the geographic job board domains are predominantly registered by EnCirca (IANA #455) with Employ Media listed as the registrant.

Have other registrars been given the opportunity to provide this service? What can you tell us about the community's expressions of interest for domain names registered under the .jobs extension and how they are considered and handled by Employ Media? If adequate notice to the Community concerning the availability of these domain names has not occurred, have there been any violations of the equal access provisions for approved and accepted ICANN-accredited registrars in .jobs? Are there business records you could share with us?

We will answer each question independently.

First question: Have other registrars been given the opportunity to provide this service?

Answer: Yes. Every .jobs accredited registrar inherently has the opportunity to provide registration service to Employ Media. EnCirca expressed an interest to be our registrar of record for domains we register. No other .jobs accredited registrar has, to date, expressed such interest.

Second question: What can you tell us about the community's expressions of interest for domain names registered under the .jobs extension and how they are considered and handled by Employ Media?

Answer: If we understand the question, it is asking what we do when someone asks us about a name which is already registered? We tell them the domain is registered and in the zone file. If such names are in the companyname product category, we remind such entities that any acquiring entity must independently comply with all current registration requirements. Sometimes there are expressions of interest with regard to paying additional sums for such domain names. We thank such parties for their interest and tell them no, such actions are not within our business plans at the moment. We have been approached for "bulk" deals regarding use of many names, over several product categories. We have listened to all such inquiries, and discussed the same with SHRM.

Third question: If adequate notice to the Community concerning the availability of these domain names has not occurred, have there been any violations of the equal access provisions for approved and accepted ICANN-accredited registrars in .jobs?

Answers: Except to the extent "these" domains qualify under the companyname product category (for which the Community already has notice), "these" domain names are not available, so the question is moot. It is at our discretion to determine if a .jobs domain name request qualifies as a "company name". It is also at our discretion to determine which names may qualify for other product categories. If we decide, in our and SHRM's discretion, to make names in other product categories available, we will provide adequate notice of such to the Community. There have been no violations of the equal access provisions for approved and accepted ICANN-accredited registrars in .jobs. We have an open-door policy to all such registrars. There are no technical distinctions between such registrars with regard to bulk registrations to Employ Media of names in non-companyname product categories. If a particular registrar wishes to discuss a bulk registration deal with us regarding these names, our door is open. Of note, we are assuming for the purposes of the first answer in this paragraph that "Community" is the

“Community” as defined in the Charter, and not the general internet community, nor the community of registrars, as these communities should not be confused with each other.

Fourth question: Are there business records you could share with us?

Answer: We will gladly share with you any business records which directly relate to contractual compliance matters which are properly within the scope of ICANN’s and Employ Media’s obligations under the registry agreement.

MATTERS RELATING TO EMPLOY MEDIA’S RSEP PROPOSAL
REGARDING TWO-CHARACTER DOMAIN NAMES

ICANN has asked Employ Media to address Employ Media’s RSEP proposal #2007002 regarding release of two-character domain names in .jobs. In short, the proposal requested release of two-character domains to be allocated on a first-come, first-served basis through ICANN-accredited registrars. ICANN’s preliminary determination did not identify any significant competition or security or stability issues. ICANN allowed Employ Media to go forward with such an implementation so long as Employ Media distributed “a press release internationally to provide adequate notice to potential registrants within the global community of employers (which may include governments as employer organizations) and notice to the ccNSO and GAC of the timeline for availability of two-character domain names in .jobs.”

As ICANN has noted, no press release was issued and no notice was given to the ccNSO and the GAC.

Employ Media, in its current beta tests and in conjunction with SHRM and in the interests of the Community, has decided at this time that two-character domains should not be allocated as set forth in the RSEP proposal and furthermore should not be released to third parties as contemplated under the RSEP proposal. If Employ Media and SHRM, acting in the best interests of the Community, determine otherwise in the future, Employ Media will comply with ICANN’s terms regarding release/allocation of such names, including the aforementioned notices to the ccNSO and GAC).

PROPOSAL FOR MUTUALLY BENEFICIAL RESOLUTION

We are fully aware that there can be other interpretations of the language in the registry agreement. While we strongly believe that these are not the preferred, better or proper interpretations (instead favoring the interpretations we have set forth throughout this response), we recognize them as not illegitimate reads and likely the source of confusion which led to the questions/complaints that we are addressing in this compliance review. Are there grey areas in the registry agreement? There might be. We believe that it would be to everyone’s benefit – Employ Media, our sponsor, ICANN, the Community and the general internet community – to address the appearance of any such grey areas of interpretation and even issue some sort of document evincing our mutual understanding of certain terms in the agreement. Such a document would not necessarily be any kind of contractual amendment; rather, it would be a document that states the parties’ mutual understanding and

interpretation of certain provisions in the registry agreement. We have attached a sample draft of such a document for your review.

CONCLUSION

We thank ICANN for the ability to address all of the matters and educate all inquiring third parties regarding the obligations set forth in the .jobs registry agreement and Employ Media's compliance therewith. We look forward to resolving this matter expeditiously and further look forward to meeting with you this coming Wednesday.

MEMORANDUM OF UNDERSTANDING
REGARDING CERTAIN PROVISIONS CONTAINED IN THE .JOBS STLD REGISTRY AGREEMENT

After mutual discussion, Internet Corporation for Assigned Names and Numbers (“ICANN”) and Employ Media LLC (“Employ Media”; ICANN and Employ Media collectively the “Parties”) have reached a level of mutual understanding and interpretation regarding certain provisions of the .jobs Sponsored TLD Registry Agreement executed between the Parties on or about May 5, 2005 (the “Agreement”).

This Memorandum of Understanding (the “MOU”) is not an amendment of the Agreement or any of the provisions thereof. Rather, it is a collective statement of the Parties’ understanding and interpretation of certain provisions therein which have seemed to recently cause confusion.

The Parties reference certain provisions within Appendix S, Part VII:

From the “Community Value Criteria”:

.jobs domain registrations are limited to the legal name of an employer and/or a name or abbreviation by which the employer is commonly known. All prospective registrants must submit a Qualification Document (generally speaking, proof of status as an employer organization, such as, e.g., in the U.S., a Form 941) which will be reviewed by Employ Media for approval prior to allowing registration.

Also from the “Community Value Criteria”:

A reserved list of names will be employed to prevent inappropriate name registrations. Certain groups of domains will be reserved, such as, e.g., a list of occupational identifiers (e.g., the U.S. Bureau of Labor Statistics list of SOC occupations), industry identifiers (e.g., healthcare.jobs) and certain geographic identifiers (e.g., northeasternohio.jobs). These restricted lists are in addition to the restriction that .jobs domains comprise only trade names or commonly-known names (reserved list domains will be registered to the Registry Operator in the registry database to reflect their status as reserved names). In the event other domains are made available for registration (which would require approval as set forth in this Agreement), such domains will be specifically enumerated (i.e., not creatable by an applicant) and will be pre-screened to remove any inappropriate names.

The Parties note that these provisions must be interpreted in light of the following provisions:

From Appendix S, Part IV:

The Registry Operator may from time to time introduce new categories of domain registrations, consistent with the Charter and in compliance with the provisions of this Sponsored TLD Registry Agreement. Registry Operator reserves the right to introduce additional start-up plan(s) for any such introductions.

From Section 7.1(b):

Registry Operator shall not act as a registrar with respect to the TLD. This shall not preclude Registry Operator from registering names within the TLD to itself through a request made to an ICANN-accredited registrar.

From Appendix S, Part I, the Charter:

The .JOBS TLD will be established to serve the needs of the international human resource management community (the "Community"). "Human resource management" is 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.

Also from the Charter:

The following persons may request registration of a second-level domain within the .JOBS TLD:

- members of SHRM; 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...

From Appendix S, Part II, Delegated Authority:

...following areas of responsibility for development of policies for the Sponsored TLD are delegated to the Registry Operator...

1. Establishment of naming conventions to be used in the Sponsored TLD.
2. 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.
3. 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.
4. Performance of Eligibility and Name-Selection Services (ENS Services)...
5. Mechanisms for enforcement of the restrictions in items 1, 2 and 3... .
- ...
9. Matters concerning the operation of the registry for the Sponsored TLD.
- ...
14. Uses and practices by registrants with respect to Registered Names.

15. Procedures and schedule for the start-up of the Sponsored TLD, provided they are consistent with Attachment 8.

The Parties further acknowledge the nature of a Sponsored Top Level Domain and how the intent and purpose of such is differentiated from an unsponsored Top Level Domain:

Generally speaking, an unsponsored TLD operates under policies established by the global Internet community directly through the ICANN process, while a sponsored TLD is a specialized TLD that has a sponsor representing the narrower community that is most affected by the TLD. The sponsor thus carries out delegated policy-formulation responsibilities over many matters concerning the TLD.

A Sponsor is an organization to which is delegated some defined ongoing policy-formulation authority regarding the manner in which a particular sponsored TLD is operated. The sponsored TLD has a Charter, which defines the purpose for which the sponsored TLD has been created and will be operated. The Sponsor is responsible for developing policies on the delegated topics so that the TLD is operated for the benefit of a defined group of stakeholders, known as the Sponsored TLD Community, that are most directly interested in the operation of the TLD. (<http://www.icann.org/en/tlds>)

Based upon all of the provisions reproduced above, the remainder of the Registry Agreement, and taking into account the intent and purpose of an sTLD in general and the purpose for the .jobs sTLD as stated in the Charter, and further for the purpose of mitigating any confusion regarding interpretation of these provisions, the Parties conclude that the provisions set forth in Appendix S, Part VII should not be interpreted as per se restrictions on Employ Media's ability to establish, modify and maintain naming conventions for the .jobs sTLD. Furthermore, the parties conclude that the registration of domains in the .jobs sTLD and the use of such domains have been delegated to Employ Media and its sponsor including business rules, regulations, and enforcement provided that such rules, regulations, and enforcement do not exceed the .jobs Charter.

Acknowledged and Agreed:

ICANN

EMPLOY MEDIA

EXHIBIT K

From: David Giza [David.Giza@icann.org]
Sent: Wednesday, January 20, 2010 11:58 AM
To: Tom Embrescia; Ray Fassett
Cc: Craig Schwartz; William McKelligott; Samantha Eisner; Kurt Pritz
Subject: ICANN Compliance review of the .Jobs Registry Agreement

Dear Tom and Ray,

Thank you again for hosting William, Samantha and me at your offices in Cleveland in December 2009 and for your continued participation in ICANN's contractual compliance review.

After a review of the registrations and the information provided, ICANN has determined that certain domain name registrations involved in the .JOBS shared domain beta are in violation of the Registry Agreement.

There are three categories of the shared domains that are of particular concern to ICANN:

- Two character registrations entered against the terms set forth by ICANN in response to Employ Media's 2008 request;
- Geographic names; and
- Industry and occupational identifiers.

Each of the three categories identified above are required to be explicitly reserved under the Registry Agreement, at Appendix 6 and Appendix S, Section 7.2.

Two-Character Names

Under the Registry Agreement, two-character names are to be reserved at the registry level until particular conditions are met, such as the Registry Operator submitting a proposal for release of those labels. As Employ Media acknowledges, in 2007 a proposal

was submitted by ICANN, and ICANN authorized the release of two-character labels within the .JOBS sTLD after Employ Media issues: “a press release internationally to provide adequate notice to potential registrants within the global community of employers (which may include governments as employer organizations) and notice to the ccNSO and GAC of the timeline for availability of two-character domain names in .jobs.” Employ Media has not issued the press release or provided the required notice to the GAC. Therefore, any registration and use of two character names is in violation of the Registry Agreement.

From ICANN’s review, two-character labels have been introduced at the second level within the .JOBS registry in violation of the Registry Agreement. For example, ca.jobs and mx.jobs, among others, resolve to active websites.

Geographic Names

Employ Media is obligated, under Appendix 6 as well as Appendix S, Section 7.2 of the Registry Agreement, to hold geographic and geopolitical identifiers on reserve from registration. Appendix 6 states:

All geographic and geopolitical names contained in the ISO 3166-1 list from time to time shall initially be reserved at both the second level and at all other levels within the TLD at which the Registry Operator provides for registrations. All names shall be reserved both in English and in all related official languages.

In addition, Registry Operator shall reserve names of territories, distinct economies, and other geographic and geopolitical names as ICANN may direct from time to time. Such names shall be reserved from registration during any sunrise period, and shall be registered in ICANN's name prior to start-up and open registration in the TLD.

Registry Operator shall post and maintain an updated listing of all such names on its website, which list shall be subject to change at ICANN's direction. Upon determination by ICANN of appropriate standards and qualifications for registration following input from interested parties in the Internet community, such names may be approved for registration to the appropriate authoritative body.

At Section 7.2 of the Appendix S, Employ Media again agreed to reserve geographic identifiers from registration.

ICANN's investigation revealed that geographic and geopolitical names are registered and resolving to active websites within the .JOBS beta, including asia.jobs, mexico.jobs and chicago.jobs, as examples. This is violation of the Registry Agreement.

Industry and occupational identifiers

At Appendix S, Section 7.2, Employ Media specifically agreed to reserve "a list of occupational identifiers (e.g., the U.S. Bureau of Labor Statistics list of SOC occupations), [and] industry identifiers (e.g., healthcare.jobs)" from registration. The "premium placement" order form selling advertising on the proposed shared domains (<https://www.placement.jobs/order.php>) sets forth many occupational and industry identifiers that are to be actively registered within the .JOBS sTLD.^[1] The anticipated launch of registrations comprising industry and occupational identifiers is in violation of the Registry Agreement.

Reserved Names are Not Appropriately Registered For Use by Any Person or Entity

In the Registry Agreement, Employ Media expressly agreed to hold names on reserved lists "to prevent inappropriate name registrations." The identified reserve lists "are in addition to the

restriction that .jobs domains comprise only trade names or commonly-known names.” While the Registry Agreement anticipates that additional categories of names may be registered within the sTLD, the Registry Agreement clearly states that the introduction of the new types of registration would require approval by ICANN. See Section 7.2, Appendix S. The appropriate approvals either have not been sought, or, as in the case of two-character labels, the conditions set forth in the approval *have not been met* by Employ Media. As a result, Employ Media’s registration of these names – without simply holding the names on reserve – is a violation of the Registry Agreement.

As ICANN understands it, Employ Media believes that the statement in Section 7.2 that “reserved list domains will be registered to the Registry Operator”, coupled with the explicit allowance for Employ Media to register domain names, as set forth at Section 7.1(b) of the main Registry Agreement, provides the basis for Employ Media to register and actively use the names as Employ Media sees fit. ICANN does not agree with this interpretation of the Registry Agreement.

The Registry Agreement as a whole does not support the assumption that Employ Media may elect to use the names required to be held on a reserved list so long as the names are registered to Employ Media. The important characteristic of all names held on a reserve list is that they are reserved from registration for use – not that the names are reserved for use by one specific entity.[2]

<#_ftn2> For all categories of names required to be on a reserve list, it is appropriate for Employ Media as the Registry Operator to register each name for the purpose of holding the name in reserve and restricting a third party’s ability to register each name. However, once those reserved names are registered for use in the DNS, there is no functional difference in the Registry Operator using those names as opposed to offering the registrations to outside

entities.

Employ Media Has Not Complied With the Policy Development Procedures Set Forth in the Registry Agreement

Because of .JOBS' status as an sTLD, Employ Media must follow an additional step in the introduction of new categories of domain name registrations into the sTLD. Section 3.1(g) of the Registry Agreement sets out Employ Media's obligation to coordinate with its Sponsor, the Society for Human Resource Management (SHRM) for policy development activities, and Employ Media is required to post those policies and practices, as well as facilitate broader discussion on those policy development activities. Appendix S, Section 7.3, sets out SHRM's policy development process, including the creation of a council and posting of minutes of the council's activities and deliberations. ICANN cannot find any record of policy development work performed within the .JOBS sTLD community, and Employ Media confirmed at the December 9, 2009 meeting that it is not aware of this policy development process being implemented by SHRM. On December 22, 2009, ICANN conducted a telephone interview with Mr. Gary Rubin and Mr. Henry Hart from SHRM. During the interview, Mr. Rubin confirmed that no policy development activities have been initiated by SHRM.

Employ Media has represented to ICANN that there is no need for the policy development process to be initiated for any of the names within the .JOBS beta. According to Employ Media, the only "policy" that exists is the Charter, and allowing .JOBS registrations beyond the companyname.jobs registrations anticipated within the Registry Agreement is an autonomous, delegated function under the Registry Agreement. ICANN does not agree with this assessment.

The terms of the Registry Agreement explicitly state that the limitation of domain name registrations in the .JOBS sTLD to

companyname.jobs registration is indeed a “policy” that is separate from the Charter. Some examples of language documenting this policy are:

The Registry Agreement, at Section 3.1(d), states “Registry Operator shall establish policies, in conformity with the charter, for the naming conventions within the sponsored TLD and for requirements of registration, consistent with Section 3.1(g)” (emphasis added).

In Appendix S, Section 7.3:

SHRM and Employ Media have already agreed upon certain policies (available upon request in the Employ Media/SHRM agreement). *The Charter is an example. In an additional example, jobs registrations will only be allowed for domain names which (i) are for the legal name(s) under which a proposed registrant does business (e.g., a trade name such as ElDuPontdeNemours.jobs), for a name under which the proposed registrant is commonly known (e.g., dupont.jobs) or which includes such a legal or commonly-known name (e.g., dupontcanada.jobs); (ii) are based upon an application for registration which is submitted by a Qualified Applicant; and (iii) names as the registrant of the domain name the entity which is identified by the trade name or commonly known name. These current policies are only revisable/amendable via the policy making process described herein.*

By the very terms set forth in the Registry Agreement, the Charter is separate from the policy restricting the types of domain names that can be registered within the .JOBS sTLD. ICANN does not suggest that policies allowing the use of the shared domains set forth in the beta could not be reached; however, Employ Media has not yet deployed nor followed the proper processes in reaching its determination to allow for registration of the geographic, industry/occupation-based, and other non-companyname.jobs

domain name registrations.

One of the unique facets of an sTLD is the close, transparent and accountable working relationship the Registry Operator shares with the Sponsor. While Employ Media has many powers delegated to it under the Registry Agreement, Employ Media remains responsible for assuring the agreed-to policy development procedures are adhered to for innovations and changes within the sTLD. That has not yet happened for the .JOBS beta.

ICANN looks forward to working collaboratively with Employ Media to facilitate its return to compliance with the Registry Agreement. Please contact me at your earliest convenience so we can discuss, agree to and then document the corrective actions and timetable necessary to remedy this situation in a mutually acceptable Remediation Plan.

We appreciate the productive working relationship our companies have enjoyed in the past, and anticipate the same in the future.

Regards,

Dave

David A. Giza

Senior Director, Contractual Compliance

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[1] The order form also contains numerous examples of geographic and geopolitical names that were to be reserved from registration.

2 Appendix 6 of the Registry Agreement sets out specific labels that *must* be used only by the Registry Operator, including “nic”, “whois” and “www”. None of these labels are at issue in .JOBS shared domain beta.

[1] <#_ftnref1> The order form also contains numerous examples of geographic and geopolitical names that were to be reserved from registration.

[2] <#_ftnref2> Appendix 6 of the Registry Agreement sets out specific labels that *must* be used only by the Registry Operator, including “nic”, “whois” and “www”. None of these labels are at issue in .JOBS shared domain beta.

EXHIBIT L

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25,000 new Dot-jobs sites launch next week

January 29, 2010 | Author [Peter M. Zollman](#)

INDIANAPOLIS, Ind. — The news out of yesterday's meeting about Dot-jobs at the Indianapolis offices of DirectEmployers Association:

— 25,000 new recruitment site URLs, all dot-jobs, go live next week. Right now there are a few hundred dot-jobs sites; the number will increase exponentially on an ongoing basis. Most will be geographic domains, including sites for every community over 5,000 population in the United States, the Dot-jobs guys say. Others will be position-specific, such as Sales jobs, or geo-and-position specific, like ChicagoEngineering.jobs.

— Will Dot-jobs compete with traditional recruitment sites? Absolutely. But it's been around for five years with little traction; we'll see if the major enhancements the Dot-jobs folks are launching will make a difference.

— Only a handful of people, out of 30 invited, showed up for the meeting. No surprise there; did Bill Warren, head of DirectEmployers Association and a one-time president of Monster.com, really expect Sal Iannuzzi of Monster Worldwide to show up? Still, it was a valuable information session for those of us who attended.

Much more detailed analysis coming in a couple of clients-only posts later today, and more follow-up next week.

I attended the four-hour meetings with Warren and his staff, and am available to clients for consultation about threats and opportunities posed by Dot-jobs. Call our office, 407-788-2780, or e-mail pzollman@aimgroup.com to set an appointment.



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EXHIBIT M

ICANN

February 5, 2010

Mr. Ray Fassett
Vice President, Operations and Policy for .JOBS
Employ Media LLC
3029 Prospect Avenue
Cleveland, OH 44115

Re: Compliance review of the .Jobs Registry Agreement

Dear Ray,

Thank you for forwarding the 25 January 2010 proposed remediation plan regarding Employ Media's violation of the Registry Agreement with ICANN. While ICANN appreciates the work involved in the formation of the proposed remediation plan, the plan does not sufficiently address appropriate remediation steps. As indicated below, an adequate remediation plan includes coming into full compliance with the present agreement before agreement amendments could be considered.

As previously set out in my email of 20 January 2010, Employ Media's operation of the .JOBS shared domain beta has resulted in multiple violations of Employ Media's Registry Agreement with ICANN. Additional violations have also been identified.

Briefly, those violations set out in the 20 January 2010 email are:

Registration of two-character names in violation of Appendix 6 and Section 7.2 of Appendix S of the Registry Agreement. In 2007, Employ Media applied for a release of two-character names on a first-come, first-served registration basis, to allow for registration of two-character companyname.jobs registrations. ICANN approved the release, contingent upon the provision of notice to registrants and to the GAC and the ccNSO of the impending release.

Please see <http://www.icann.org/en/registries/rsep/index.html#2007002>. The required notices were never provided; therefore all registration of two-character names in the .JOBS sTLD is in violation of the Registry Agreement. Two-character names at the second level, such as mx.jobs, ca.jobs and us.jobs are still resolving, and Employ Media remains in violation of the Registry Agreement.

Registration of Geographic and Geopolitical identifiers in violation of Appendix 6 and Appendix S, Section 7.2 of the Registry Agreement. Though both Appendix 6 and Appendix S state that Employ Media must reserve these

geographic names, there are still geographic names resolving at the second level¹, such as unitedkingdom.jobs, canada.jobs and india.jobs. Employ Media therefore remains in violation of the Registry Agreement for this conduct.

Registration of industry and occupational identifiers. Employ Media specifically agreed, at Appendix S, Section 7.2, to reserve industry and occupational identifiers from registration. Currently, industry and occupational identifiers, such as finance.jobs, healthcare.jobs and nursing.jobs, are still resolving, and Employ Media remains in violation of the Registry Agreement for this conduct.

Failure to comply with the Policy Development Procedures set forth at Appendix S of the Registry Agreement. Appendix S, Section 7.3 of the Registry Agreement specifies that a policy of the .JOBS sTLD is “.jobs registrations will only be allowed for domain names which (i) are for the legal name(s) under which a proposed registrant does business (e.g., a trade name such as ElDuPontdeNemours.jobs), for a name under which the proposed registrant is commonly known (e.g., dupont.jobs) or which includes such a legal or commonly-known name (e.g., dupontcanada.jobs) Th[is] current polic[y is] only revisable/amendable via the policy making process described herein.” The registrations in the shared domain beta, however, are different from this “companyname.jobs” limitation and must be the subject of an independently initiated policy development process by the sTLD’s sponsoring organization, the Society for Human Resource Management (SHRM). Representatives of Employ Media and SHRM have confirmed that the policy development process was not activated prior to the registration of the domain names within the shared domain beta. Employ Media’s use of the domain names within the shared domain beta, done without the proper policy directive from SHRM, is a separate violation of the Registry Agreement.

ICANN is aware of other violations of the Registry Agreement that were not raised in the 20 January 2010 email:

Failure to escrow registry data. Article 3, Section 1.c.i of the Registry Agreement requires that escrow shall be maintained, at Registry Operator's expense, by a reputable escrow agent mutually approved by Registry Operator and ICANN. Further, escrow shall be held under an agreement, substantially in the form of Appendix 2, among ICANN, the Registry Operator, and the escrow agent. To date, Employ Media is not in compliance with this obligation.

¹ Employ Media must reserve geographic and geopolitical names from registration at any level that Employ Media offers registration for the .JOBS sTLD. By limiting the reference above to second level registrations, ICANN does not waive any rights to enforce the Registry Agreement in the event that prohibited registrations are located at other levels.

Failure to provide bulk access to zone file data. Article 3, Section 1.c.iii of the Registry Agreement requires Employ Media to provide third party bulk access to zone file data. As confirmed to Craig Schwartz on 26 January 2010, Employ Media is not providing this third party access, and is therefore in violation of this provision of the Registry Agreement.

Required Steps to Remediation

While the action items identified in Employ Media's proposed remediation plan may ultimately be the steps required to operate the shared domain beta in compliance with the Registry Agreement, they are not the proper steps to remediate the current violations of the Registry Agreement. The proper action at this time is for Employ Media to make all registrations in the shared domain beta stop resolving in the DNS. Employ Media can then work to initiate the proper processes, applications and approvals, as necessary, to craft the proper scope of allowable registrations in the .JOBS sTLD.

Employ Media should also work to remedy the registry data escrow and zone file data access issues. ICANN understands that Employ Media is currently in conversations with Iron Mountain Digital as a potential escrow provider, and is encouraged by the forward movement on this issue.

The Policy Development Process

ICANN notes that part of the proposed remediation plan includes seeking ICANN confirmation of the completion of various steps of the SHRM policy development process. ICANN is not a proper overseer of a sponsoring organization's policy development and will not approve any interim parts of SHRM's process, including the members of the Policy Development Council. Employ Media's contractual obligation to ICANN is to confirm that SHRM independently operates a Policy Development Council (including the selection of the membership) as well as the policy development process, and to make sure that any proposed policy changes arising out of the policy development process and presented to Employ Media for implementation are properly documented.

To the extent that a remediation plan from Employ Media includes reference to SHRM's policy development process, ICANN suggests the following concepts for consideration:

- Employ Media to make sure that SHRM independently operates the Policy Development Council as set forth in the Registry Agreement;
- Employ Media to confirm that SHRM abides by the Registry Agreement requirement that "The ability for any member of the Community to raise a policy or change will be clearly apparent via at minimum the SHRM website";

- Employ Media commits to working with SHRM to make sure the policy development work is as transparent as possible, such as availability of online boards and lists for community comment; and
- Employ Media to include reference to SHRM's ongoing policy work – including the issues under consideration – in the “proposed policy changes” section of the goto.jobs website operated by Employ Media.

Proposed Launch of 25,000 .JOBS Domain Names

ICANN values the cooperative relationship we've shared with Employ Media, and expects that relationship to continue. Given the extent of communication that ICANN and Employ Media have had on the propriety of the shared domain beta registrations, ICANN was surprised to learn of the 28 January 2010 meeting where reportedly it was announced that .JOBS was preparing to launch 25,000 domain names. A week before the announcement, ICANN informed Employ Media that the shared domain beta registrations violate the Registry Agreement. At the time of the announcement, Employ Media had not come into compliance with the Registry Agreement. Employ Media's decision to move forward without resolving the underlying contractual issues does not further our companies' abilities to resolve these violations in a cooperative fashion, and ICANN urges Employ Media to suspend any full launch of the shared domains until the proper processes have occurred and only domains that are not in violation of Employ Media's Registry Agreement are registered for use.

Next Steps

As indicated above, Employ Media must come into compliance with the Registry Agreement by making all domain name registrations in the shared domain beta stop resolving in the DNS, as well as meeting the zone file access and registry data escrow obligations. Once Employ Media is in compliance with the Registry Agreement, ICANN will be in a position to evaluate any properly initiated requests for new registry services or amendments to the Registry Agreement.

If Employ Media does not come into compliance with the Registry Agreement by 22 February 2010, ICANN will then need to escalate this matter and issue a formal Notice of Breach as set forth in the Registry Agreement.² A formal Notice of Breach will be publicly posted on ICANN's website.

ICANN remains hopeful that Employ Media's compliance with the Registry Agreement can be achieved without resort to the formal Notice procedure. Once

² ICANN reserves the right to implement any applicable dispute resolution provision allowed under the Registry Agreement. In addition, ICANN does not waive the right to identify and seek compliance with additional violations of the Registry Agreement.

Employ Media returns to compliance, ICANN looks forward to continuing the cooperative relationship that our companies have enjoyed in the past.

Please confirm Employ Media's receipt of this letter and the completion of the remediation identified above.

Best regards,

David A. Giza

David A. Giza
Senior Director, Contractual Compliance
ICANN

Copy: Mr. Kurt Pritz, ICANN
Mr. Craig Schwartz, ICANN
Mr. William McKelligott, ICANN
Ms. Samantha Eisner, ICANN

EXHIBIT N

provision, allocate, register (to third parties or itself), allow use of in the DNS (by third parties or itself), reserve or remove from reserve, any non-"companyname" domain names, including industry and occupational domains, geographic domains, dictionary term domains and two-character domains, all such policies, practices or business rules are amended to allow Employ Media, at Employ Media's discretion (provided that Employ Media maintains adherence to the .jobs Charter), to provision, allocate, register (to third parties or itself), allow use of in the DNS (by third parties or itself), reserve and remove from reserve, all such non-"companyname" domain names.

Submitting Party: Employ Media LLC

Discussion:

Employ Media is the Registry Operator of the .jobs top level domain ("TLD"). Employ Media's role is to provision, allocate or otherwise allow registration of domain names in .jobs. In enacting this role, Employ Media must adhere to the .jobs Charter. The Charter states that only members of the international HR management community are qualified to apply for a .jobs domain name. Currently, Employ Media only accepts registration applications from qualified applicants, and only for domains that correspond to the applicant's company's name or trade name ("companyname" domain names). Upon receipt of an application, Employ Media evaluates registration information and, in its sole determination, decides whether to approve or decline. If approved, the requested domain is registered by the applicant (i.e., the registrant of record is the company).

Employ Media's proposed amendment relates to non-"companyname" domains, such as industry and occupational domains (domains which identify or describe an industry or occupation, such as nursing.jobs), geographic domains (domains which identify a geographic area, such as cleveland.jobs), dictionary term domains (domains which are words or phrases which are contained in a dictionary, such as best.jobs), two-character domains (domains with only two characters, such as al.jobs) and various combinations (such as clevelandnursing.jobs).

Previously, Employ Media began the process of creating a self-managed class of names in the .jobs tld. Called the shared domain beta test, many non-"companyname" .jobs domains were (and in many cases still are) registered to Employ Media. Employ Media "used" these domains in the DNS by redirecting them to a third party (the Direct Employers Association), who themselves "used" the domains by providing uniform, consistent content to all the domains in the shared beta test.

In the shared domain beta, if a user accessed "marketing.jobs" in their browser, they would have gone to an Employ Media-registered domain with content provided by the Direct Employers Association. This content included job listings from employers at no charge to the employers; it was an automated free job listing service available to all employers worldwide to allow candidates to apply directly to the employer. Employ Media received no domain name registration fees for the domains it selected and registered for the shared domain beta test. All employers were allowed to list jobs at no cost. Job seekers were allowed to apply directly to the employer at no cost. Any employer could, however, purchase from Employ Media one or more of a limited number of "premium placement" positions at each domain, a fixed position for a fixed duration of time to achieve greater visibility (such as in the case of an urgent hiring need). Premium placement served the purpose of funding the beta test in lieu of Employ Media's receipt of domain name registration fees, job posting fees or job applicant submission fees.

Based upon input from the .jobs community, Employ Media selected the domains included in the shared domain beta (and thus not considered "companyname" domains), and Employ Media registered each of these names in its own name (i.e., the registrant of record was/is Employ Media LLC). No other party outside of Employ Media was/is the registrant of record for any domain in the shared domain beta

test.

The shared domain beta test has been placed on hold while this proposed amendment is considered by the PDP Council. By approving this proposed amendment, the Council will confirm on behalf of their HR community Employ Media's ability to (a) provision and allocate non-"companyname" domains, which means Employ Media decides whether a domain is a "companyname" domain, and further decides who can register such names; (b) determine registration of the domains, including registering them to itself (i.e., a self-managed class of names); (c) reserve and un-reserve the names, to both allow and prohibit registration and use of the names; and (d) use the domains itself and allow third party use of the domains.

Approval of the proposed amendment confirms that Employ Media has the authorities identified above. Such authority is broad enough to cover the workings of the shared domain beta test, and Employ Media would likely restart the shared domain beta.

Employ Media is aware that some in the community may have alleged that the shared domain beta was an exclusive deal, and that Employ Media did not solicit beta proposals from other parties. Employ Media notes that the authorities identified above are broader than the shared domain beta test as described. This will allow Employ Media to explore other ways of provisioning/ allocating non-"companyname" domains, including domain-industry standard practices like initiating Request for Proposals to invite interested parties to propose specific plans for registration, use and promotion of the domains, implementing auctions for the domains, and implementing a first-come, first-serve real-time, post-validation (if necessary) mechanism of allocation. It will also allow Employ Media flexibility in maintaining the shared domain beta test, all within the scope of the .jobs Charter. While it is not Employ Media's current intent to employ any of these industry-standard or industry non-standard ways of provisioning/allocating domains, Employ Media will remain open to all proposals regarding .jobs domains, so long as the scope of the .jobs Charter is maintained.

Effect on any applicable policies, practices or business rules of .jobs:

Employ Media believes that the following provisions from the .jobs registry agreement (the "Agreement") may be affected by this proposed amendment:

From Appendix S, Part IV:

The Registry Operator may from time to time introduce new categories of domain registrations, consistent with the Charter and in compliance with the provisions of this Sponsored TLD Registry Agreement. Registry Operator reserves the right to introduce additional start-up plan(s) for any such introductions.

From Section 7.1(b):

Registry Operator shall not act as a registrar with respect to the TLD. This shall not preclude Registry Operator from registering names within the TLD to itself through a request made to an ICANN-accredited registrar.

From Appendix S, Part I, the Charter:

The .JOBS TLD will be established to serve the needs of the international human resource management community (the "Community"). "Human resource management" is 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.

Also from the Charter:

The following persons may request registration of a second-level domain within the .JOBS TLD:

- members of SHRM; 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...

From Appendix S, Part II, Delegated Authority:

...following areas of responsibility for development of policies for the Sponsored TLD are delegated to the Registry Operator...

1. Establishment of naming conventions to be used in the Sponsored TLD.
2. 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.
3. 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.
4. Performance of Eligibility and Name-Selection Services (ENS Services)...
5. Mechanisms for enforcement of the restrictions in items 1, 2 and 3... .
- ...
9. Matters concerning the operation of the registry for the Sponsored TLD.
- ...
14. Uses and practices by registrants with respect to Registered Names.
15. Procedures and schedule for the start-up of the Sponsored TLD, provided they are consistent with Attachment 8.

From Appendix S, Part VII:

From the "Community Value Criteria":

.jobs domain registrations are limited to the legal name of an employer and/or a name or abbreviation by which the employer is commonly known. All prospective registrants must submit a Qualification Document (generally speaking, proof of status as an employer organization, such as, e.g., in the U.S., a Form 941) which will be reviewed by Employ Media for approval prior to allowing registration.

Also from the "Community Value Criteria":

A reserved list of names will be employed to prevent inappropriate name registrations. Certain groups of domains will be reserved, such as, e.g., a list of occupational identifiers (e.g., the U.S. Bureau of Labor Statistics list of SOC occupations), industry identifiers (e.g., healthcare.jobs) and certain geographic identifiers (e.g., northeasternohio.jobs). These restricted lists are in addition to the restriction that .jobs domains comprise only trade names or commonly-known names (reserved list domains will be registered to the Registry Operator in the registry database to reflect their status as reserved names). In the event other domains are made available for registration (which would require approval as set forth in this Agreement), such domains will be specifically enumerated (i.e., not creatable by an applicant) and will be pre-screened to remove any inappropriate names.

Also from the "Community Value Criteria":

A reserved list of names will be employed to prevent inappropriate name registrations. Certain groups of domains will be reserved, such as, e.g., a list of occupational identifiers (e.g., the U.S. Bureau of Labor Statistics

list of SOC occupations), industry identifiers (e.g., healthcare.jobs) and certain geographic identifiers (e.g., northeasternohio.jobs). These restricted lists are in addition to the restriction that .jobs domains

comprise only trade names or commonly-known names (reserved list domains will be registered to the Registry Operator in the registry database to reflect their status as reserved names). In the event other domains are made available for registration (which would require approval as set forth in this Agreement), such domains will be specifically enumerated (i.e., not creatable by an applicant) and will be pre-screened to remove any inappropriate names.

From "Policy Making and Differentiation":

"...jobs registrations will only be allowed for domain names which (i) are for the legal name(s) under which a proposed registrant does business (e.g., a trade name such as ElduPontdeNemours.jobs), for a name under which the proposed registrant is commonly known (e.g., dupont.jobs) or which includes such a legal or commonly-known name (e.g., dupontcanada.jobs); (ii) are based upon an application for registration which is submitted by a Qualified Applicant; and (iii) names as the registrant of the domain name the entity which is identified by the trade name or commonly known name. These current policies are only revisable/amendable via the policy making process described herein."

It is Employ Media's position that approval of the current Proposed Amendment would clarify that the actions set forth in the Proposed Amendment would not be precluded by the Appendix S Provisions or any other provisions in the Agreement.

Additional .JOBS Naming Conventions

Explanation/Background: Community comment is being solicited at this time on the subject of naming conventions in .JOBS that are in addition to the "company name" naming convention. The company name naming convention allows any employer organization to acquire its legal or commonly known name as a domain name registration in .JOBS via an application process through a .JOBS accredited registrar. Working examples of "company name" domain name registrations in .JOBS include www.walgreens.jobs, www.parkmanor.jobs, www.searchrecruitment.jobs, and www.talentmap.jobs. **more**

Submit a Policy Change Request

To be considered, your Request must indicate how the proposed change affects you.

You must be [logged in](#) to submit a policy change request.

EXHIBIT O



ICANN Registry Request Service

Ticket ID: Z9S3D-2E4B2

Registry Name: Employ Media LLC

gTLD: .JOBS

Status: ICANN Review

Status Date: 2010-06-09 07:07:20

Print Date: 2010-06-09 07:07:31

Proposed Service

Name of Proposed Service:

Technical description of Proposed Service:

Employ Media proposes to implement the Phased Allocation Program detailed below.

Pursuant to the Policy Development Process ("PDP") set forth in the .JOBS agreement between ICANN and Employ Media (dated May 5, 2005), see Appendix S, Part VII (3) thereof (<http://www.icann.org/en/tlds/agreements/jobs/appendix-S-05may05.htm>), the Society for Human Resource Management ("SHRM") has created and oversees a PDP Council to review proposed amendments to .JOBS policy, practices and business rules. On June 3, 2010, the PDP Council approved by supermajority vote the following amendment (the "Amendment"), which was also approved by SHRM and Employ Media:

"To the extent that any policies, practices or business rules in .JOBS govern Employ Media's ability to provision, allocate, register (to third parties or itself), allow use of in the DNS (by third parties or itself), reserve or remove from reserve, any non-"companyname" domain names, including industry and occupational domains, geographic domains, dictionary term domains and two-character domains, all such policies, practices or business rules are amended to allow Employ Media, at Employ Media's discretion (provided that Employ Media maintains adherence to the .JOBS Charter), to provision, allocate, register (to third parties or itself), allow use of in the DNS (by third parties or itself), reserve and remove from reserve, all such non-"companyname" domain names."

The scope of the Phased Allocation Program is narrower than the Amendment approved by the PDP Council, SHRM and Employ Media; the Phased Allocation Program (and this Registry Request Service) specifically excludes all second-level country names set forth on the ISO-3166 list as referenced in Appendix 6 to the .JOBS registry agreement (<http://www.icann.org/en/tlds/agreements/jobs/appendix-6-05may05.htm>). The scope of the Phased Allocation Program does not include domains resulting from applications for "companyname" domains. For the purpose of this Registry Request Service, domains within the scope of the Phased Allocation Program are referenced as "Phased Allocation Domains."

Employ Media's proposed Phased Allocation Program will have three main components, similar to other Phased Allocation Programs previously submitted and approved for other TLDs through the RSEP:

- 1. Request for Proposals (RFP) to invite interested parties to propose specific plans for registration, use and promotion of domains that are not their company name;*



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2. By auction round that offers domains not allocated through the RFP process; and
3. A first-come, first-served real-time release of any domains not registered through the RFP or auction processes.

.JOBS is a sponsored top level domain. The Phased Allocation Program reflects the desires of the Community served by .JOBS, as demonstrated in the PDP Council's approval of the above-styled Amendment. It is Employ Media's intent to solicit plans consistent with the dictates of our Community, so long as such plans are consistent with the .JOBS Charter, the Amendment approved by the PDP Council and this Registry Service Request, including but not limited to plan(s) which may create a self-managed class of domains registered in Employ Media's name.

Prior to the time of an auction (i.e. Step 2), Employ Media will publish a list of one or more domains along with adequate notice to .JOBS registrars and public notice to interested members of the .JOBS community for the opportunity to participate on equal footing.

Consultation

Please describe with specificity your consultations with the community, experts and or others. What were the quantity, nature and content of the consultations?:

Employ Media invoked its Policy Development Process (PDP) to seek approval of the Amendment from the PDP Council, appointed by SHRM independently and representative of the .JOBS community, as defined in Employ Media's contract with ICANN. In the documentation submitted to the Council regarding Employ Media's proposal of the Amendment (Proposed Amendment and Issues Report), the industry standard methods of name allocation as set forth in the Phased Allocation Program (RFP, auction and first-come, first-serve) were specifically noted as within the authority granted under the proposed Amendment. The documentation further identified the types of names to be made available e.g. industry, occupational, geographic, and dictionary domains.

- a. If the registry is a sponsored TLD, what were the nature and content of these consultations with the sponsored TLD community?:

The .JOBS Community is set forth in the .JOBS Charter as the international human resource management community. As



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policy delegate to this Community, SHRM is in regular contact with members of the Community.

As required under the ICANN/Employ Media .JOBS registry agreement, SHRM created the PDP Council (<http://www.policy.jobs/council.php>) comprising a group of Community members which represent the broad and varying interests of the Community. This PDP Council was independently created and is independently overseen by SHRM. The PDP Council members represent varying HR interests of small employers, large employers, union employers, non-union employers, government employers, private employers, international employers, academic employers, service employers, manufacturing employers, high technology employers, and recruitment companies. The PDP Council met to discuss, analyze and weigh the proposed Amendment in an atmosphere which fostered comment, discussion and debate.

The primary instruments utilized by the PDP Council for outreach and feedback towards an informed decision included question and answer sessions about the Proposed Amendment and Issues Report documents, a scientific survey conducted by SHRM Research to approximately 3,000 practicing HR professionals, an online opinion poll sent by SHRM to approximately 300,000 HR subscribers, and multiple general public comment forums.

b. Were consultations with gTLD registrars or the registrar constituency appropriate? Which registrars were consulted? What were the nature and content of the consultation?:

Because there is little to no impact on registrars under this proposed implementation (notably the requirement that all .JOBS domain names must be registered through a .jobs accredited registrar remains unchanged), there is no need to engage in substantive consultations with gTLD registrars or the registrar stakeholder group. With this said, we believe many .JOBS accredited registrars would naturally support expanded naming conventions in .JOBS to offer domains for sale.



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c. Were consultations with other constituency groups appropriate? Which groups were consulted? What were the nature and content of these consultations?:

As .JOBS is a sponsored TLD with a defined community, and as the ICANN/Employ Media .JOBS registry agreement contains a mechanism for effectuating change for the Community via the .JOBS PDP, Employ Media saw little benefit in substantial outreach to other constituency/stakeholder groups.

d. Were consultations with end users appropriate? Which groups were consulted? What were the nature and content of these consultations?:

See above with regard to Community consultations.

e. Who would endorse the introduction of this service? What were the nature and content of these consultations?:

The .JOBS Community as represented by the activities and actions of the .JOBS PDP Council endorses the Amendment and the introduction of this service.

f. Who would object the introduction of this service? What were(or would be) the nature and content of these consultations?:



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It is reasonable to suggest that objections may come from 3 fronts, not necessarily mutually exclusive:

- 1)Registrants of domain names operating as job sites in other TLD's who would be concerned about increased choice and innovation within the community/marketplace.*
- 2)People unfamiliar with the nature and purpose of a sponsored TLD (or the delegated authority as expressly provided in the operation of .JOBS in particular) vs. non-sponsored gTLD's in existence.*
- 3)People that 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).*

Timeline

Please describe the timeline for implementation of the proposed new registry service:

Employ Media will timely implement the Phased Allocation Program following ICANN's approval.

Business Description

Describe how the Proposed Service will be offered:

Employ Media will seek proposals from the .JOBS community for specific plans for registration, use and promotion of Phased Allocation Domains. Plans will be evaluated by Employ Media for compliance with the .JOBS Charter; compliance with other policies, practices and business rules which govern .JOBS, as applicable; impact on the Community; compliance with ICANN requirements, as applicable; quality and innovation; the nature and strength of the applicant and/or any named partners; the effect, if any, on SHRM; and the ability of the plan to deliver as set forth, including business and technical capabilities of any relevant parties.

An auction would be provided by Employ Media (or an Employ Media contracted party) in one or more phases as determined by Employ Media.



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For any domains not allocated during RFP or auction round(s), Employ Media will announce a release date and allow open, first-come, first-serve real-time registration of domains under applicable normal rules (such as, for example, for a standard registration fee).

Describe quality assurance plan or testing of Proposed Service:

Employ Media will conduct all necessary testing with any vendor or contractor to implement any auction.

Please list any relevant RFCs or White Papers on the proposed service and explain how those papers are relevant.:

Not applicable.

Contractual Provisions

List the relevant contractual provisions impacted by the Proposed Service:

Employ Media believes that certain provisions from Appendix S, Part VII are impacted by this proposed service as offered in the Contract Amendments section of this RSEP.

What effect, if any, will the Proposed Service have on the reporting of data to ICANN:

None.

What effect, if any, will the Proposed Service have on the Whois?:

No effect as all registered domains in .JOBS properly display appropriate registry Whois information.

Contract Amendments

Please describe or provide the necessary contractual amendments for the proposed service:

Appendix S, Part VII.2



ICANN Registry Request Service

Ticket ID: Z9S3D-2E4B2

Registry Name: Employ Media LLC

gTLD: .JOBS

Status: ICANN Review

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[Old Text]

.jobs domain registrations are limited to the legal name of an employer and/or a name or abbreviation by which the employer is commonly known.

[New Text]

.jobs "company name" domain registrations are limited to the legal name of an employer and/or a name or abbreviation by which the employer is commonly known. Domain registrations are permitted for other types of names (e.g., occupational and certain geographic identifiers) in addition to the "company name" designation.

[Delete]

A reserved list of names will be employed to prevent inappropriate name registrations. Certain groups of domains will be reserved, such as, e.g., a list of occupational identifiers (e.g., the U.S. Bureau of Labor Statistics list of SOC occupations), industry identifiers (e.g., healthcare.jobs) and certain geographic identifiers (e.g., northeasternohio.jobs). These restricted lists are in addition to the restriction that .jobs domains comprise only trade names or commonly-known names (reserved list domains will be registered to the Registry Operator in the registry database to reflect their status as reserved names). In the event other domains are made available for registration (which would require approval as set forth in this Agreement), such domains will be specifically enumerated (i.e., not creatable by an applicant) and will be pre-screened to remove any inappropriate names.

Appendix S, Part VII.3

[Old Text]

SHRM and Employ Media have already agreed upon certain policies (available upon request in the Employ Media/SHRM agreement). The Charter is an example. In an additional example, .jobs registrations will only be allowed for domain names which (i) are for the legal name(s) under which a proposed registrant does business (e.g., a trade name such as EIduPontdeNemours.jobs), for a name under which the proposed registrant is commonly known (e.g., dupont.jobs) or which includes such a legal or commonly-known name (e.g., dupontcanada.jobs); (ii) are based upon an application for registration which is submitted by a Qualified Applicant; and (iii) names as the registrant of the domain name the entity which is identified by the trade name or commonly known name. These current policies are only revisable/amendable via the policy making process described herein.

[New Text]



ICANN Registry Request Service

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SHRM and Employ Media have already agreed upon certain policies (available upon request in the Employ Media/SHRM agreement). The Charter is an example. In an additional example, .jobs "company name" registrations will only be allowed for domain names which (i) are for the legal name(s) under which a proposed registrant does business (e.g., a trade name such as ElduPontdeNemours.jobs), for a name under which the proposed registrant is commonly known (e.g., dupont.jobs) or which includes such a legal or commonly-known name (e.g., dupontcanada.jobs); (ii) are based upon an application for registration which is submitted by a Qualified Applicant; and (iii) names as the registrant of the domain name the entity which is identified by the trade name or commonly known name. Domain registrations are permitted for other types of names (e.g., occupational and certain geographic identifiers) in addition to the "company name" designation. These current policies are only revisable/amendable via the policy making process described herein.

Appendix S, Part VII.4

[New Text]

4. .JOBS non-companyname Phased Allocation Program ("Phased Allocation Program")

The domain names included within the scope, referred to by Employ Media in its Registry Services Evaluation Process (RSEP) as the Phased Allocation Program, shall be limited to non-companyname .jobs domain names, not including all second-level country names set forth on the ISO-3166 list as referenced in Appendix 6 to this Agreement.

Pursuant to the Phased Allocation Program, Registry Operator may elect to allocate the domain names via the following processes: 1) Request for Proposals (RFP) to invite interested parties to propose specific plans for registration, use and promotion of domains that are not their company name; 2) By auction that offers domains not allocated through the RFP process; and 3) A first-come, first-served real-time release of any domains not registered through the RFP or auction processes. Registry Operator reserves the right to not allocate any of such names.

Benefits of Service

Describe the benefits of the Proposed Service:

Employ Media believes the proposed service will offer the following benefits:

- enable members of the .JOBS community to submit proposals to Employ Media for use of domains in the DNS in ways that can serve community interests;*
- provide the HR community with increased choices to display employment opportunities;*



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- increase usage, marketing, promotion and awareness of the .JOBS TLD;
- allow opportunity for new innovation in the .JOBS TLD in ways to serve needs of the HR community.
- increased revenue and marketing resources

Competition

Do you believe your proposed new Registry Service would have any positive or negative effects on competition? If so, please explain.:

With regard to competition within DNS services and other top level domains, we do not believe the proposed service will have any positive or negative effect on competition.

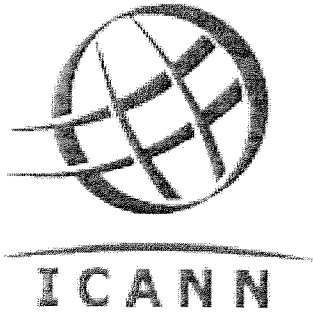
With regard to competition within our Community, we believe there will be a positive effect on competition and choice such as to promote employment opportunities. The results of the PDP, and the vote of the PDP Council gives us such knowledge.

How would you define the markets in which your proposed Registry Service would compete?:

Employ Media operates in the DNS registry market, in competition with other Registry Operators. As .JOBS is a sponsored TLD, operating for the benefit of the .JOBS Community, we do not believe there is much cross-over into the markets of other Registry Operators.

What companies/entities provide services or products that are similar in substance or effect to your proposed Registry Service?:

An RFP/auction/first-come, first serve construct has been approved before, most recently with .INFO with regard to one- and



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two-character domains.

In view of your status as a registry operator, would the introduction of your proposed Registry Service potentially impair the ability of other companies/entities that provide similar products or services to compete?:

No.

Do you propose to work with a vendor or contractor to provide the proposed Registry Service? If so, what is the name of the vendor/contractor, and describe the nature of the services the vendor/contractor would provide.:

Employ Media is likely to work with a vendor or contractor to provide auction services. Employ Media has not selected any such vendor or contractor.

Have you communicated with any of the entities whose products or services might be affected by the introduction of your proposed Registry Service? If so, please describe the communications.:

Yes. Independent job site operators in other TLD's may be affected by the introduction. Some have indicated a positive interest to submit an RFP if such were made available. Others have indicated that the proposed registry service could enable an expansion of their product and service offerings in new/innovative ways.

Do you have any documents that address the possible effects on competition of your proposed Registry Service? If so, please submit them with your application. (ICANN will keep the documents confidential).:



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See attachment.

Security and Stability

Does the proposed service alter the storage and input of Registry Data?:

No.

Please explain how the proposed service will affect the throughput, response time, consistency or coherence of responses to Internet servers or end systems:

Employ Media anticipates no adverse impact on the throughput, response time, and consistency of coherence of responses to Internet servers or end systems.

Have technical concerns been raised about the proposed service, and if so, how do you intend to address those concerns?:

Employ Media is not aware of any technical concerns regarding the proposed service.

Other Issues

Are there any Intellectual Property considerations raised by the Proposed Service:

Any Intellectual Property considerations raised by the proposed service are addressed by established, existing processes (UDRP).

Does the proposed service contain intellectual property exclusive to your gTLD registry?:

No.

List Disclaimers provided to potential customers regarding the Proposed Service:



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Not applicable.

Any other relevant information to include with this request:

Additional information as released by SHRM may be relevant.

EXHIBIT P

Minutes of Board Meeting

5 August 2010

A Special Meeting of the ICANN Board of Directors was held via teleconference on 5 August 2010 at 20:00 UTC.

Chairman Peter Dengate Thrush promptly called the meeting to order.

In addition to Chairman Peter Dengate Thrush the following Directors participated in all or part of the meeting: Rod Beckstrom (President and CEO), Dennis Jennings (Vice Chairman), Harald Tveit Alvestrand, Steve Crocker, Gonzalo Navarro, Rita Rodin Johnston, Raymond A. Plzak, George Sadowsky, Mike Silber, Jean-Jacques Subrenat, Bruce Tonkin, Katim Touray, and Kuo-Wei Wu.

Rajasekhar Ramaraj sent apologies.

The following Board Liaisons participated in all or part of the meeting: Heather Dryden, GAC Liaison; Ram Mohan, SSAC Liaison; Thomas Narten, IETF Liaison; Jónne Soininen, TLG Liaison; and Vanda Scartezini, ALAC Liaison.

Also, the following ICANN Management and staff participated in all or part of the meeting: John Jeffrey, General Counsel and Secretary; Kurt Pritz, Senior Vice President, Services; Tina Dam, Senior Director, IDNs; Kim Davies, Manager, Root Zone Services; Elise Gerich, Vice President, IANA; Diane Schroeder, Director of Board Support.

1. Executive Session

The Board conducted an executive session, without staff present, in confidence.

2. Consent Agenda:

The Board discussed the content of the Consent Agenda and noted some corrections to be made to the Minutes of the 25 June 2010 Board meeting prior to approval. The following resolutions were approved unanimously 14-0. The Resolutions were moved together by the Chair, and Dennis Jennings seconded the motion. Rajasekhar Ramaraj was not available to vote on the Resolutions.

RESOLVED, the following resolutions in this Consent Agenda are hereby approved:

- a. Approval of Minutes of 23 June 2010 ICANN Regular Board Meeting

RESOLVED (2010.08.05.01), the Board hereby approves the minutes of the 23 June 2010 Board Meeting.

- b. Approval of Minutes of 25 June 2010 ICANN Special Board Meeting

RESOLVED (2010.08.05.02), the Board hereby approves the minutes of the 25 June 2010 Board Meeting.

- c. Delegation of IDN ccTLDs:

- i. Sri Lanka

Whereas, Sri Lanka is a country currently listed in the ISO 3166-1 standard.

Whereas, . ශ්‍රී ලංකා ("Lanka"), encoded as "xn--fzc2c9e2c"; and . இலங்கை ("Ilangai"), encoded as "xn--xkc2a13hye2a"; are both strings that have been deemed to appropriately represent Sri Lanka through the IDN Fast Track process.

work is done on the more easily measurable items such as increasing the number of non-U.S. employees, the larger problems must be identified.

Harald Alvestrand supported Steve's statement about first figuring out the problems to be solved. Harald also supported the idea that a small committee is the right place for this work to be started.

The CEO noted his concern about the load placed on staff with such a large Board and such a large number of active committees and working groups. The resource constraints were echoed in the Board reviews. At this time, with the Affirmation of Commitments reviews underway and soon to be initiated, which have taken a real and appropriate tax on ICANN's resources, along with DNSSEC roll out, other technical challenges, and the continuing work on New gTLDs, Rod noted his concern that staff is already stretched to the limit on Board and committee support. If this committee will go forward, Rod requested that the Board rationalize the work of other committees and reevaluate those roles, to try to balance the large demand. Given the broadening of the range of activities of the organization, without the financial resources and staffing to scale of those continued increases in budgeted activities, Rod requested the Board take this issue under consideration.

Ray Plzak noted that Rod's concerns will always be concerns, and that the proposed committee work is very important to the Board and has to be taken care of. Along with the holistic approach, the Board has to set measures that will quantitatively do what the Board thinks needs to be done and come up with qualitative measures as well. This has to be done, even in the face of resource requirement issues.

The Chair then moved and Jean-Jaques Subrenat seconded the following resolution:

RESOLVED (2010.08.05.19), *the Board confirms the establishment of a Board Global Relationships Committee and adopts the proposed Global Relationships Committee Charter. The Board Governance Committee shall provide recommendations for the composition of the Global Relationships Committee.*

All Board members present unanimously approved this resolution. Rajasekhar Ramaraj was not available to vote on this resolution.

Jonne Soinen requested that there be coordination of ICANN attendees prior to attendance at the Internet Governance Forum in Vilnius.

The Chair confirmed that there would be such coordination.

The CEO then inquired about staff recommendation for proceeding with exploratory discussions towards more formal relationships with international organizations.

The Chair noted that exploratory discussions made without any commitment or expectations of eventual outcomes could be appropriate, but anything further would be in the purview of the new committee.

The CEO offered to have a call with the Chair and Jean-Jaques in order to form some initial parameters for exploratory discussions. Jonne Soinen also volunteered to participate.

7. Approval of RSEPREquest for Phased Allocation Program in .JOBS

The Chair opened discussion on this topic, and requested clarification on why this item was not included on the consent agenda.

John Jeffrey stated that staff assessed that the level of comments on the proposal would require some discussion.

George Sadowsky explained that he has a problem with the proposal. George noted that the original dot jobs application was put in by Employ Media for employers only, as a sponsored TLD, and the sponsoring community did not include anyone running a job board, such as monster.com. George noted that Employ Media now wants to create categories that would compete with job boards like monster.com, and those operators are now complaining. George commented that though duplicate letters were received, the contents of the letters may be correct and

have some validity, namely that Employ Media is essentially stating "we want to enlarge our services but we don't want to consult a new sponsored community because that sponsored community is larger." George noted his belief that approving the proposed resolution is against ICANN policies, and that the Board should consider the bounds of the previous Board determination to approve the Employ Media application on the basis of the sponsored community at the time of the approval. Employ Media is trying to go beyond that barrier without consulting a new sponsored community.

Kurt Pritz explained the approach that was taken when Employ Media approached ICANN with this request. Kurt noted that ICANN pointed to the policy-making authority that the sponsored TLD has in the Registry Agreement – here by the Society of Human Resource Managers (SHRM). The proposal was put in front of the policy making body of SHRM, and was approved by a vote of 7-1. Kurt reported that the design has been for ICANN to delegate certain policy-making authority to the sponsoring organization and not to get between the sponsoring organization and the sTLD with regard to if the actions of the policy-making body are appropriate or not. Kurt reported that staff read carefully the comments made by the firms opposed to the amendment, as well as those in support of the amendment, and the staff recommendation supports the sTLD model. Employ Media worked to win the approval of SHRM after ICANN staff noted that such an amendment would require the approval of the policy-making body.

The Chair reiterated what he understood George's question to raise, which is separate from Kurt's answer that Employ Media consulted with their policy making body, and ICANN delegates responsibilities to the TLD in that realm. The Chair asked if Employ Media is unfairly changing the overall bargain that led to the creation of the sTLD.

Kurt responded that there was not a change to the charter, but a change to the names that can be registered. The community is the community of human resource managers, and at least one of the vocal complainers is a SHRM member. Employ Media appears to have follow the process required in the registry agreement, and they changed the name registration policy. Kurt noted that this is a change to the terms of the original registry agreement, which is why the proposed amendment was put up for public comment.

George noted that he was not satisfied with Kurt's explanation, because Employ Media is doing more than what Kurt identified. George stated that the amendment is changing the nature of the sponsored community that would have to go along with the change being proposed. The original sponsored community did not include any competing job bulleting boards or search engines, and so those entities were not included. George noted he does not believe that the job boards/search engines were even asked if they were part of the initial community. Now, the inclusion of new second-level domain names with geographic or profession listing, Employ Media is moving from second-level domains that are only associated with individual employers to creating a taxonomy that takes the registry to a position of posing no competition to being in total competition with other groups. While this may be economically advantageous to the registry, George commented, he sees it as a breaking of the contract, and ICANN is not following its previous position on approving the .JOBS registry agreement on the basis of a limited sponsored community.

Dennis Jennings commented that he interpreted the phrase "Employ Media and SHRM intend to retain the requirement that the .JOBS registrant submit a qualification document verifying that they are an employer organization." to mean that the original charter was not being broken, and requested clarification.

Kurt replied that the universe of registrants is unchanged; it's still the hiring managers and the entities that employ people. It's the name registration policy that's changed. Kurt noted that as with all Registry Service Evaluation Process requests, this request went through a review for competition issues, and none were found. Since the time of the review, there have been comments suggesting that this might be a competition issues, and that sort of issue can be reviewed. However, Kurt noted, that if a policy making body wants to implement a change in the registry policy, how is that to be effectuated. The process here was to go through the policy-making body. If that's not the right answer, we have to be able to tell the registries the process by which they can make changes.

Harald Alvestrand asked for clarification on who will be operating the regional and occupational registrations.

Kurt responded that the names will be released through a phased allocation process similar to processes approved for other registries. The registry will first accept proposals for certain names, and if there's no request for proposal, there will be list of names auctioned, and then names will be available on a first come-first served basis.

Bruce Tonkin spoke in favor of the motion. Bruce stated that we have to allow TLD operators to evolve based on their user requirements. Bruce noted that the sponsorship organization appears to have gone through an internal process and voted to change the name allocation rules. This doesn't change the charter, only the range of names they allow to be registered. In terms of competition, there's nothing wrong with competition itself, the review is for unfair competition, or antitrust-type issues.

Katim Touray asked if staff explanation regarding how the phased allocation plan is consistent with other approved registry mechanism would be helpful.

The Chair noted that this was a true statement, and the Board could move on. The Chair invited George to make further comment.

George noted that he planned to vote no on the basis that the decision is inconsistent with ICANN policy with respect to sponsored domains.

Bruce Tonkin moved, and Rita Rodin Johnston seconded the following resolution:

Whereas, Employ Media submitted a request pursuant to ICANN's Registry Services Evaluation Policy to amend Appendix S of the .JOBS Registry Agreement permit the registration and allocation of .jobs domain names through a phased allocation process.

Whereas, the proposal was submitted to ICANN following the policy development process defined in its delegated authority in Appendix S as a sponsored TLD, with the endorsement of the sponsoring organization for .JOBS, the Society for Human Resource Management. The proposal is also consistent with other approvals to permit the registration and allocation of certain types of domain names via phased allocation mechanisms.

Whereas, ICANN has evaluated the proposed amendment to the Appendix S of the .JOBS Registry Agreement as a new registry service pursuant to the Registry Services Evaluation Policy and has posted amendments for public comment and Board approval (<http://www.icann.org/registries/rsep/>).

RESOLVED (2010.08.05.20), *the .JOBS amendment is approved, and the President and General Counsel are authorized to take such actions as appropriate to implement the amendments.*

Eleven Board members voted in favor of the resolution. George Sadowsky was opposed to the resolution, and Mike Silber and Ray Plzak abstained from voting on the resolution. Rajasekhar Ramaraj was not available to vote on the resolution. The resolution carried.

Mike Silber offered the following statement in support of his abstention: " I have no principle objection to policy development in the sponsored gTLDs, however the proposed extension purports to extend one element of the Charter - namely the names that can be registered - but not the pool of registrants. I do not believe that this has been sufficiently explored for me to support the resolution and yet have no objective indicator of potential negative impact to oppose it. As such, I am compelled to abstain."

8. Update on New gTLD program

Kurt Pritz provided an update to the Board on the New gTLD program, including alternate scenarios for launch dates. Kurt clarified that as some public comment forums relating to the Draft Applicant Guidebook, Version IV remained open, staff was not requesting for the Board to close on any New gTLD issues at this meeting. Kurt noted the assumption is that the public comment will be summarized in time for remaining issues to be resolved at the Board's September retreat, and then a plan would be presented to the Board for updating the guidebook. A proposed final version would be presented in time for consideration in Cartagena, and after that, the required four-month communication plan would be initiated. Kurt noted that the communication plan would not be initiated prior to the guidebook being approved.

If the Board determined that full public comment on the proposed final version of the Applicant Guidebook, the version would be published in sufficient time to close just prior to the Board meeting in Cartagena. After summary and analysis, a final version of the Applicant Guidebook would be presented in January for approval at the

EXHIBIT Q

BYLAWS FOR INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

A California Nonprofit Public-Benefit Corporation
As amended 24 June 2011

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ARTICLE I: MISSION AND CORE VALUES

Section 1. MISSION

The mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. In particular, ICANN:

1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are
 - a. Domain names (forming a system referred to as "DNS");
 - b. Internet protocol ("IP") addresses and autonomous system ("AS") numbers; and
 - c. Protocol port and parameter numbers.
2. Coordinates the operation and evolution of the DNS root name server system.
3. Coordinates policy development reasonably and appropriately related to these technical functions.

Section 2. CORE VALUES

In performing its mission, the following core values should guide the decisions and actions of ICANN:

1. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.
2. Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.
3. To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.
4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
5. Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.
6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.
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.
11. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible. Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values.

ARTICLE II: POWERS

Section 1. GENERAL POWERS

Except as otherwise provided in the Articles of Incorporation or these Bylaws, the powers of ICANN shall be exercised by, and its property controlled and its business and affairs conducted by or under the direction of, the

Board. With respect to any matters that would fall within the provisions of Article III, Section 6, the Board may act only by a majority vote of all members of the Board. In all other matters, except as otherwise provided in these Bylaws or by law, the Board may act by majority vote of those present at any annual, regular, or special meeting of the Board. Any references in these Bylaws to a vote of the Board shall mean the vote of only those members present at the meeting where a quorum is present unless otherwise specifically provided in these Bylaws by reference to "all of the members of the Board."

Section 2. RESTRICTIONS

ICANN shall not act as a Domain Name System Registry or Registrar or Internet Protocol Address Registry in competition with entities affected by the policies of ICANN. Nothing in this Section is intended to prevent ICANN from taking whatever steps are necessary to protect the operational stability of the Internet in the event of financial failure of a Registry or Registrar or other emergency.

Section 3. NON-DISCRIMINATORY TREATMENT

ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition.

ARTICLE III: TRANSPARENCY

Section 1. PURPOSE

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.

Section 2. WEBSITE

ICANN shall maintain a publicly-accessible Internet World Wide Web site (the "Website"), which may include, among other things, (i) a calendar of scheduled meetings of the Board, Supporting Organizations, and Advisory Committees; (ii) a docket of all pending policy development matters, including their schedule and current status; (iii) specific meeting notices and agendas as described below; (iv) information on ICANN's budget, annual audit, financial contributors and the amount of their contributions, and related matters; (v) information about the availability of accountability mechanisms, including reconsideration, independent review, and Ombudsman activities, as well as information about the outcome of specific requests and complaints invoking these mechanisms; (vi) announcements about ICANN activities of interest to significant segments of the ICANN community; (vii) comments received from the community on policies being developed and other matters; (viii) information about ICANN's physical meetings and public forums; and (ix) other information of interest to the ICANN community.

Section 3. MANAGER OF PUBLIC PARTICIPATION

There shall be a staff position designated as Manager of Public Participation, or such other title as shall be determined by the President, that shall be responsible, under the direction of the President, for coordinating the various aspects of public participation in ICANN, including the Website and various other means of communicating with and receiving input from the general community of Internet users.

Section 4. MEETING NOTICES AND AGENDAS

At least seven days in advance of each Board meeting (or if not practicable, as far in advance as is practicable), a notice of such meeting and, to the extent known, an agenda for the meeting shall be posted.

Section 5. MINUTES AND PRELIMINARY REPORTS

1. All minutes of meetings of the Board and Supporting Organizations (and any councils thereof)

shall be approved promptly by the originating body and provided to the ICANN Secretary for posting on the Website.

2. No later than 11:59 p.m. on the second business days after the conclusion of each meeting (as calculated by local time at the location of ICANN's principal office), any resolutions passed by the Board of Directors at that meeting shall be made publicly available on the Website; provided, however, that any actions relating to personnel or employment matters, legal matters (to the extent the Board determines it is necessary or appropriate to protect the interests of ICANN), matters that ICANN is prohibited by law or contract from disclosing publicly, and other matters that the Board determines, by a three-quarters (3/4) vote of Directors present at the meeting and voting, are not appropriate for public distribution, shall not be included in the preliminary report made publicly available. The Secretary shall send notice to the Board of Directors and the Chairs of the Supporting Organizations (as set forth in Articles VIII - X of these Bylaws) and Advisory Committees (as set forth in Article XI of these Bylaws) informing them that the resolutions have been posted.

3. No later than 11:59 p.m. on the seventh business days after the conclusion of each meeting (as calculated by local time at the location of ICANN's principal office), any actions taken by the Board shall be made publicly available in a preliminary report on the Website, subject to the limitations on disclosure set forth in Section 5.2 above. For any matters that the Board determines not to disclose, the Board shall describe in general terms in the relevant preliminary report the reason for such nondisclosure.

4. No later than the day after the date on which they are formally approved by the Board (or, if such day is not a business day, as calculated by local time at the location of ICANN's principal office, then the next immediately following business day), the minutes shall be made publicly available on the Website; provided, however, that any minutes relating to personnel or employment matters, legal matters (to the extent the Board determines it is necessary or appropriate to protect the interests of ICANN), matters that ICANN is prohibited by law or contract from disclosing publicly, and other matters that the Board determines, by a three-quarters (3/4) vote of Directors present at the meeting and voting, are not appropriate for public distribution, shall not be included in the minutes made publicly available. For any matters that the Board determines not to disclose, the Board shall describe in general terms in the relevant minutes the reason for such nondisclosure.

Section 6. NOTICE AND COMMENT ON POLICY ACTIONS

1. With respect to any policies that are being considered by the Board for adoption that substantially affect the operation of the Internet or third parties, including the imposition of any fees or charges, ICANN shall:

a. provide public notice on the Website explaining what policies are being considered for adoption and why, at least twenty-one days (and if practical, earlier) prior to any action by the Board;

b. provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments, prior to any action by the Board; and

c. in those cases where the policy action affects public policy concerns, to request the opinion of the Governmental Advisory Committee and take duly into account any advice timely presented by the Governmental Advisory Committee on its own initiative or at the Board's request.

2. Where both practically feasible and consistent with the relevant policy development process, an in-person public forum shall also be held for discussion of any proposed policies as described in Section 6(1)(b) of this Article, prior to any final Board action.

3. After taking action on any policy subject to this Section, the Board shall publish in the meeting

minutes the reasons for any action taken, the vote of each Director voting on the action, and the separate statement of any Director desiring publication of such a statement.

Section 7. TRANSLATION OF DOCUMENTS

As appropriate and to the extent provided in the ICANN budget, ICANN shall facilitate the translation of final published documents into various appropriate languages.

ARTICLE IV: ACCOUNTABILITY AND REVIEW

Section 1. PURPOSE

In carrying out its mission as set out in these Bylaws, ICANN should be accountable to the community for operating in a manner that is consistent with these Bylaws, and with due regard for the core values set forth in Article I of these Bylaws. The provisions of this Article, creating processes for reconsideration and independent review of ICANN actions and periodic review of ICANN's structure and procedures, are intended to reinforce the various accountability mechanisms otherwise set forth in these Bylaws, including the transparency provisions of Article III and the Board and other selection mechanisms set forth throughout these Bylaws.

Section 2. RECONSIDERATION

1. ICANN shall have in place a process by which any person or entity materially affected by an action of ICANN may request review or reconsideration of that action by the Board.
2. Any person or entity may submit a request for reconsideration or review of an ICANN action or inaction ("Reconsideration Request") to the extent that he, she, or it have been adversely affected by:
 - a. one or more staff actions or inactions that contradict established ICANN policy(ies);
or
 - b. one or more actions or inactions of the ICANN Board that have been taken or refused to be taken without consideration of material information, except where the party submitting the request could have submitted, but did not submit, the information for the Board's consideration at the time of action or refusal to act.
3. The Board has designated the Board Governance Committee to review and consider any such Reconsideration Requests. The Board Governance Committee shall have the authority to:
 - a. evaluate requests for review or reconsideration;
 - b. determine whether a stay of the contested action pending resolution of the request is appropriate;
 - c. conduct whatever factual investigation is deemed appropriate;
 - d. request additional written submissions from the affected party, or from other parties;
and
 - e. make a recommendation to the Board of Directors on the merits of the request.
4. ICANN shall absorb the normal administrative costs of the reconsideration process. It reserves the right to recover from a party requesting review or reconsideration any costs which are deemed to be extraordinary in nature. When such extraordinary costs can be foreseen, that fact and the reasons why such costs are necessary and appropriate to evaluating the Reconsideration Request

shall be communicated to the party seeking reconsideration, who shall then have the option of withdrawing the request or agreeing to bear such costs.

5. All Reconsideration Requests must be submitted to an e-mail address designated by the Board Governance Committee within thirty days after:

- a. for requests challenging Board actions, the date on which information about the challenged Board action is first published in a preliminary report or minutes of the Board's meetings; or
- b. for requests challenging staff actions, the date on which the party submitting the request became aware of, or reasonably should have become aware of, the challenged staff action; or
- c. for requests challenging either Board or staff inaction, the date on which the affected person reasonably concluded, or reasonably should have concluded, that action would not be taken in a timely manner.

6. All Reconsideration Requests must include the information required by the Board Governance Committee, which shall include at least the following information:

- a. name, address, and contact information for the requesting party, including postal and e-mail addresses;
- b. the specific action or inaction of ICANN for which review or reconsideration is sought;
- c. the date of the action or inaction;
- d. the manner by which the requesting party will be affected by the action or inaction;
- e. the extent to which, in the opinion of the party submitting the Request for Reconsideration, the action or inaction complained of adversely affects others;
- f. whether a temporary stay of any action complained of is requested, and if so, the harms that will result if the action is not stayed;
- g. in the case of staff action or inaction, a detailed explanation of the facts as presented to the staff and the reasons why the staff's action or inaction was inconsistent with established ICANN policy(ies);
- h. in the case of Board action or inaction, a detailed explanation of the material information not considered by the Board and, if the information was not presented to the Board, the reasons the party submitting the request did not submit it to the Board before it acted or failed to act;
- i. what specific steps the requesting party asks ICANN to take-i.e., whether and how the action should be reversed, cancelled, or modified, or what specific action should be taken;
- j. the grounds on which the requested action should be taken; and
- k. any documents the requesting party wishes to submit in support of its request.

7. All Reconsideration Requests shall be posted on the Website..

8. The Board Governance Committee shall have authority to consider Reconsideration Requests from different parties in the same proceeding so long as (i) the requests involve the same general action or inaction and (ii) the parties submitting Reconsideration Requests are similarly affected by such action or inaction.
9. The Board Governance Committee shall review Reconsideration Requests promptly upon receipt and announce, within thirty days, its intention to either decline to consider or proceed to consider a Reconsideration Request after receipt of the Request. The announcement shall be posted on the Website.
10. The Board Governance Committee announcement of a decision not to hear a Reconsideration Request must contain an explanation of the reasons for its decision.
11. The Board Governance Committee may request additional information or clarifications from the party submitting the Request for Reconsideration.
12. The Board Governance Committee may ask the ICANN staff for its views on the matter, which comments shall be made publicly available on the Website.
13. If the Board Governance Committee requires additional information, it may elect to conduct a meeting with the party seeking Reconsideration by telephone, e-mail or, if acceptable to the party requesting reconsideration, in person. To the extent any information gathered in such a meeting is relevant to any recommendation by the Board Governance Committee, it shall so state in its recommendation.
14. The Board Governance Committee may also request information relevant to the request from third parties. To the extent any information gathered is relevant to any recommendation by the Board Governance Committee, it shall so state in its recommendation.
15. The Board Governance Committee shall act on a Reconsideration Request on the basis of the public written record, including information submitted by the party seeking reconsideration or review, by the ICANN staff, and by any third party.
16. To protect against abuse of the reconsideration process, a request for reconsideration may be dismissed by the Board Governance Committee where it is repetitive, frivolous, non-substantive, or otherwise abusive, or where the affected party had notice and opportunity to, but did not, participate in the public comment period relating to the contested action, if applicable. Likewise, the Board Governance Committee may dismiss a request when the requesting party does not show that it will be affected by ICANN's action.
17. The Board Governance Committee shall make a final recommendation to the Board with respect to a Reconsideration Request within ninety days following its receipt of the request, unless impractical, in which case it shall report to the Board the circumstances that prevented it from making a final recommendation and its best estimate of the time required to produce such a final recommendation. The final recommendation shall be posted on the Website.
18. The Board shall not be bound to follow the recommendations of the Board Governance Committee. The final decision of the Board shall be made public as part of the preliminary report and minutes of the Board meeting at which action is taken.
19. The Board Governance Committee shall submit a report to the Board on an annual basis containing at least the following information for the preceding calendar year:
 - a. the number and general nature of Reconsideration Requests received;
 - b. the number of Reconsideration Requests on which the Board Governance

Committee has taken action;

c. the number of Reconsideration Requests that remained pending at the end of the calendar year and the average length of time for which such Reconsideration Requests have been pending;

d. a description of any Reconsideration Requests that were pending at the end of the calendar year for more than ninety (90) days and the reasons that the Board Governance Committee has not taken action on them;

e. the number and nature of Reconsideration Requests that the Board Governance Committee declined to consider on the basis that they did not meet the criteria established in this policy;

f. for Reconsideration Requests that were denied, an explanation of any other mechanisms available to ensure that ICANN is accountable to persons materially affected by its decisions; and

g. whether or not, in the Board Governance Committee's view, the criteria for which reconsideration may be requested should be revised, or another process should be adopted or modified, to ensure that all persons materially affected by ICANN decisions have meaningful access to a review process that ensures fairness while limiting frivolous claims.

20. Each annual report shall also aggregate the information on the topics listed in paragraph 19(a)-(e) of this Section for the period beginning 1 January 2003.

Section 3. INDEPENDENT REVIEW OF BOARD ACTIONS

1. In addition to the reconsideration process described in Section 2 of this Article, ICANN shall have in place a separate process for independent third-party review of Board actions alleged by an affected party to be inconsistent with the Articles of Incorporation or Bylaws.

2. Any person materially affected by a decision or action by the Board that he or she asserts is inconsistent with the Articles of Incorporation or Bylaws may submit a request for independent review of that decision or action.

3. Requests for such independent review shall be referred to an Independent Review Panel ("IRP"), which shall be charged with comparing contested actions of the Board to the Articles of Incorporation and Bylaws, and with declaring whether the Board has acted consistently with the provisions of those Articles of Incorporation and Bylaws.

4. The IRP shall be operated by an international arbitration provider appointed from time to time by ICANN ("the IRP Provider") using arbitrators under contract with or nominated by that provider.

5. Subject to the approval of the Board, the IRP Provider shall establish operating rules and procedures, which shall implement and be consistent with this Section 3.

6. Either party may elect that the request for independent review be considered by a three-member panel; in the absence of any such election, the issue shall be considered by a one-member panel.

7. The IRP Provider shall determine a procedure for assigning members to individual panels; provided that if ICANN so directs, the IRP Provider shall establish a standing panel to hear such claims.

8. The IRP shall have the authority to:

EXHIBIT R



October 25, 2010

From: Employ Media LLC (Via e-mail)
To: ICANN Board Governance Committee
Re: Reconsideration Request 10-2 submitted by the .JOBS Charter Compliance Coalition

Introduction

Below, Employ Media responds to the questions posed by the Board Governance Committee (“BGC”) as part of its reconsideration of the Board’s 5 August 2010 approval of amendments to the .JOBS sTLD Registry Agreement.

The .JOBS Charter Compliance Coalition’s (the “Coalition”) request for reconsideration is based upon allegations that the amendments approved by the Board will in fact result in Employ Media operating the .JOBS registry in violation of the Charter specified in the Registry Agreement. Employ Media categorically rejects such allegations as unfounded speculation, and made solely to delay the launch of the .JOBS Phased Allocation Program. The Coalition further alleged that the Board did not consider material information on this issue. As discussed below, Employ Media confirms that all information required by ICANN’s RSEP and requested by ICANN staff was made available to the Board when it approved the amendments to the .JOBS Registry Agreement on 5 August 2010.

Questions

1. Do you confirm that the amendments approved by the ICANN Board on 5 August 2010 do not change the Charter of the .JOBS sTLD? If not, please explain how you believe the .JOBS Charter was changed.

Answer: Employ Media confirms that the amendments approved by the ICANN Board on 5 August 2010 do not change the Charter of the .JOBS sTLD.

2. At the time of the 5 August 2010 Board meeting, did Employ Media intend to allow registrations in the .JOBS sTLD from persons or entities not meeting the .JOBS Charter registration requirements? If so, please explain your reasoning for this intent and state whether an expression of this intent was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: At the time of the 5 August 2010 Board meeting, Employ Media did NOT intend to allow registrations in the .JOBS sTLD from persons or entities not meeting the .JOBS Charter registration requirements. Further, Employ Media has NO intention to allow registrations in the .JOBS sTLD from persons or entities not meeting the .JOBS Charter registration requirements.



3. Prior to the Board's 5 August 2010 action, did Employ Media make any representations to the public regarding availability of registrations in the .JOBS sTLD? If so, what was the substance of these representations, and please state whether these representations were available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: Specifically with respect to the availability of registrations in the .JOBS sTLD, Employ Media has made various representations to the public at various times. After all, it is our responsibility as registry operator to market and allocate domains. However, all such representations have always been consistent, to the best of our knowledge, with the terms of Employ Media's registry agreement with ICANN, as well as the statements contained in Employ Media's RSEP.

4. Do you confirm that Employ Media will only allow persons or entities identified in the Charter to register names in the .JOBS sTLD? If not, please explain your reasoning for allowing such persons or entities to register names in the .JOBS sTLD, and state whether an expression of this reasoning was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: The .JOBS Charter states that "[t]he following persons may request registration of a second-level domain within the .JOBS TLD: members of SHRM; 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...".

Employ Media confirms that we will only allow persons identified in the Charter to request registration of names in the .JOBS sTLD.

5. In Employ Media's Registry Request, it stated: "Independent job site operators in other TLD's may be affected by the introduction. Some have indicated a positive interest to submit an RFP if such were made available. Others have indicated that the proposed registry service could enable an expansion of their product and service offerings in new/innovative ways." Please identify all "independent job site operators" that are referred to in this statement, and whether each is a member of the Sponsored Community sufficient to register names in the .JOBS sTLD.

Answer: Records of all independent job site operators who indicated interest, either positive or negative, were not formally maintained. Many such communications were informal in nature, and there were no commercial, legal or RSEP-related imperatives that required the allocation of



internal resources so that formal records could be maintained on a consistent basis.

6. Please identify when the White Paper available at <http://www.universe.jobs/pdfs/wp-dotjobs-tld.pdf> was produced. Did any employees or officers of Employ Media participate in the drafting of the White Paper? Please also state whether this White Paper was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: The White Paper currently available at <http://www.universe.jobs/pdfs/wp-dotjobs-tld.pdf> and dated on its face "August 2010" was not drafted by Employ Media. To Employ Media's knowledge, no employee or officer of Employ Media participated in the drafting of the White Paper. To Employ Media's knowledge, the White Paper was drafted by DirectEmployers Association. Employ Media does not know when the White Paper was produced. Employ Media has no knowledge as to whether the White Paper was available to the Board before it took its action on 5 August 2010.

However, Employ Media is aware that a document produced by DirectEmployers Association and called a "White Paper" has been publicly available at www.universe.jobs since early 2010. This white paper (the "Earlier White Paper") was referenced by at least Monster Worldwide in Monster's 15 July 2010 correspondence posted to ICANN's public comment board. As such, there can be no doubt that the Earlier White Paper was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

While Employ Media has no direct knowledge, it is possible that the current White Paper is a later version, or revision, of the Earlier White Paper. Employ Media had the opportunity to review portions of the Earlier White Paper and comment on such, but did not participate in the drafting of same and had no control as to whether such comments were taken into account in any posted version of the Earlier White Paper.

The White Paper referenced in the above question is merely one third-party's position with regard to a proposal; it does not speak for Employ Media, or in any way bind Employ Media, or control how Employ Media will act.

7. Please state whether all material information regarding the vote of the Society for Human Resource Management ("SHRM") Policy Development Council to propose an amendment to the .JOBS Registry Agreement was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.



Answer: To Employ Media's knowledge, all material information regarding the vote of the Society for Human Resource Management ("SHRM") Policy Development Council to propose an amendment to the .JOBS Registry Agreement was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

8. Please identify when the Registry Services Evaluation Process proposal ("RSEP Proposal") was drafted and who took part in drafting the proposal.

Answer: The RSEP Proposal was drafted over an extended period of time prior to its submission to ICANN, and was drafted by Employ Media staff in cooperation and consultation with ICANN staff.

9. Please state whether Employ Media took any steps to prevent or interfere with any entity or person's ability to state its position, or provide information, to the Board regarding amendment of the .JOBS Registry Agreement before or during the 5 August 2010 Board meeting.

Answer: Employ Media did not take any steps to prevent or interfere with any entity or person's ability to state its position, or provide information, to the Board regarding amendment of the .JOBS Registry Agreement before or during the 5 August 2010 Board meeting.

10. Please state whether Employ Media was involved in creating or managing a coordinated response to the RSEP Proposal during the public comment period, which is available at <http://www.icann.org/en/public-comment/public-comment-201007-en.htm#jobs-phased-allocation>.

Answer: Employ Media was not involved in creating or managing a coordinated response to the RSEP Proposal during the public comment period, which is available at <http://www.icann.org/en/public-comment/public-comment-201007-en.htm#jobs-phased-allocation>. Several entities did approach Employ Media and ask what they could say in support of the RSEP Proposal, and Employ Media did suggest in the ordinary course of business language which could be used to voice their support. However, this is by no means a managed or coordinated response as exemplified by the Coalition, whose actions included drafting form letters, engaging at least one Washington, D.C. law firm intimately familiar with ICANN public comment forums, soliciting funding to pay such lawyers, and performing email blasts to spread misinformation and encourage negative posts. Employ Media took no such similar actions.

11. At the time of the 5 August 2010 Board action, did Employ Media have any intention of registering names under the Phased Allocation Plan to any entity other than Employ Media? If so, please state whether Employ Media



expressed this intent to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: At the time of the 5 August 2010 Board action, Employ Media did NOT have any intention of registering names under the Phased Allocation Plan to any entity other than Employ Media.

12. At the time of the 5 August 2010 Board action, did Employ Media have any intention to license the use of .JOBS names registered to Employ Media to persons or entities that would not qualify for registration under the .JOBS sTLD Charter? If so, please state whether Employ Media expressed this intent to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: At the time of the 5 August 2010 Board action, Employ Media did NOT have any intention to license the use of .JOBS names registered to Employ Media to persons or entities that would not qualify for registration under the .JOBS sTLD Charter.

13. Has Employ Media solicited participation in the Phased Allocation Process from companies or entities that do not qualify for registration under the .JOBS sTLD Charter? If so, please explain Employ Media's reasoning for doing so.

Answer: Employ Media confirms that to the best of its knowledge, it has not solicited participation in the Phased Allocation Process from companies or entities that do not qualify for registration under the .JOBS sTLD Charter.

EXHIBIT S

Recommendation Of The Board Governance Committee
Reconsideration Request 10-2
9 December 2010

On 20 August 2010, the .JOBS Charter Compliance Coalition (the “Coalition”) submitted a request to the ICANN Board Governance Committee (“BGC”) to reconsider the 5 August 2010 decision of the ICANN Board of Directors (“Board”) to approve an amendment to the .JOBS Registry Agreement (*See* Reconsideration Request 10-2, <http://www.icann.org/en/committees/reconsideration/reconsideration-petition-jobs-20aug10-en.pdf>, hereinafter the “Request”). The Coalition also requested that the BGC recommend that the Board adopt procedures for consideration of future requests that have the affect of amending the Charter of a sTLD. The Coalition further requested that the Board “stay Employ Media’s launch of the Phased Allocation Program pending its review of [the Request].”

I. Relevant Bylaws.

Article IV, Section 2.2 of ICANN’s Bylaws states in relevant part that any entity may submit a request for reconsideration or review of an ICANN action or inaction to the extent that it has been adversely affected by:

- (a) one or more staff actions or inactions that contradict established ICANN policy(ies); or
- (b) one or more actions or inactions of the ICANN Board that have been taken or refused to be taken without consideration of material information.

The Bylaws do not provide for reconsideration where “the party submitting the request could have submitted, but did not submit, the information for the Board’s consideration at the time of action or refusal to act.” Bylaws, Art. IV, § 2.2 (emphasis added). Similarly, the Bylaws do not provide for reconsideration of material information that was considered by the Board. Bylaws, Art. IV, § 2.2(b) (stating that reconsideration addresses Board actions “taken without consideration of material information . . .”).

If an entity is requesting reconsideration of ICANN staff action or inaction, a request must contain, among other things, “a detailed explanation of the facts as presented to the staff and the reasons why the staff’s action or inaction was inconsistent with established ICANN policy(ies).” Bylaws, Art. IV, § 2.6(g). When challenging a Board action or inaction, a request must contain, among other things, “a detailed explanation of the material information not considered by the Board and, if the information was not presented to the Board, the reasons the party submitting the request did not submit it to the Board before it acted or failed to act. Bylaws, Art. IV, § 2.6(h).

Dismissal of a request for reconsideration is mandatory if the BGC finds that the requesting party does not have standing because it failed to satisfy the criteria set forth in the Bylaws. In addition, the BGC may dismiss a request “where it is repetitive, frivolous, non-substantive, or otherwise abusive.” Bylaws, Art. IV, § 2.16. These standing and application

requirements are intended to protect the reconsideration process from abuse and to ensure that it is not used as a mechanism simply to challenge a decision with which someone disagrees, but that it is limited to situations where the Board did not have access to information that, if available, may have resulted in a different decision.

The Request was received on 20 August 2010, making it timely under the Bylaws. Bylaws, Art. IV, § 2.5. On 20 September 2010, the BGC announced that it would consider the Request in conformity with ICANN's Bylaws.

(See <http://www.icann.org/en/announcements/announcement-20sep10-en.htm>). It was impractical for the BGC to issue this final recommendation to the Board by 18 November 2010, the 90-day time period suggested in the Bylaws (Bylaws, Art. IV, § 2.17), as the Coalition requested a meeting with the BGC to present the Coalition's position on the matter prior to the BGC's issuance of the final recommendation. (See the Coalition's 15 November 2010 letter, at <http://www.icann.org/en/committees/reconsideration/burr-to-jeffrey-15nov10-en.pdf>.) The BGC is therefore issuing its recommendation now, as soon as practicable after that meeting.

II. Background.

On 9 June 2010, Employ Media, the registry operator of the .JOBS sTLD Registry, submitted a Registry Services Evaluation Process proposal ("RSEP Proposal") to ICANN seeking to amend portions of the .JOBS Registry Agreement to allow for registration of geographical identifier (non-country) names and occupational names. This represented a change to the prior limitations within the .JOBS sTLD, which restricted registrations to "companyname.jobs" names (*e.g.*, icann.jobs) for the legal name of an employer and/or the name by which an employer is commonly known. The companyname.jobs restriction was detailed within Employ Media's application for the .JOBS sTLD.

As an sTLD, there is a sponsoring organization responsible for setting the policies of the .JOBS sTLD in the interests of the sponsored community. Here, The Society for Human Resource Management ("SHRM") serves as the sponsoring organization, representing the "international human resource management community . . . 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." (See .JOBS Agreement, Appx. S, at Part VII.) This community definition is included within the .JOBS Charter, which is set forth in full in Part VII of the .JOBS Agreement.

The Charter also limits the scope of who may register second-level domains within the .JOBS TLD:

- members of SHRM; 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.

SHRM, in its role as the Sponsoring Organization, implemented its Policy Development Process as set forth in Appendix S of the .JOBS Agreement, after Employ Media submitted a proposed amendment. (See <http://policy.jobs/>.)¹ The Council minutes are available at <http://policy.jobs/councilmeetings.php>, and the results of the vote and “Notice of Decision” are available at <http://policy.jobs/>. These results were reported in Employ Media’s RSEP Proposal. The SHRM Policy Development Council approved the following by a supermajority vote:

To the extent that any policies, practices or business rules in .JOBS govern Employ Media’s ability to provision, allocate, register (to third parties or itself), allow use of in the DNS (by third parties or itself), reserve or remove from reserve, any non-“companyname” domain names, including industry and occupational domains, geographic domains, dictionary term domains and two-character domains, all such policies, practices or business rules are amended to allow Employ Media, at Employ Media's discretion (provided that Employ Media maintains adherence to the .JOBS Charter), to provision, allocate, register (to third parties or itself), allow use of in the DNS (by third parties or itself), reserve and remove from reserve, all such non-“companyname” domain names.

(See RSEP Proposal.)

As a result of the Policy Development Council’s vote, Employ Media proposed that the .JOBS Agreement be modified as set forth at <http://www.icann.org/en/tlds/agreements/jobs/proposed-jobs-amendment-15jun10-en.pdf>, which encompasses the amendments approved by the Board on 5 August 2010. To effectuate the Policy Development Council recommendation, Employ Media proposed the implementation of a “Phased Allocation Process” for the non-companyname.jobs second-level registrations, beginning with a Request for Proposals for the registration of the non-companyname.jobs registrations, then proceeding to an auction, and finally to a first-come, first-served registration period for any remaining names. This Phased Allocation Process is similar to phased allocations approved in other sTLDs, including .MOBI, .PRO, and .TRAVEL.

Because the RSEP Proposal included a revision to the .JOBS Agreement, the proposed amendment was posted for public comment for a 30-day period. The public comment is

¹ One of the former members of SHRM’s Policy Development Council – a member who resigned prior to the vote on the amendment (see <http://policy.jobs/files/06032010.pdf>) – is also a member of the International Association of Employment Web Sites (“IAEW”), one of the members of the Coalition bringing the Request. Jobing, Inc. is identified on Attachment 1 to the Request.

available at <http://www.icann.org/en/public-comment/public-comment-201007-en.htm#jobs-phased-allocation>.

The public comment period closed on 15 July 2010. The Summary and Analysis of Public Comments, prepared by ICANN staff, was posted on 2 August 2010. Over 300 comments – some of which were duplicates – were submitted on this topic. Many of the comments were similar and demonstrated the existence of at least one coordinated campaign. The Summary and Analysis of Public Comment document included discussion of comments both for and against the proposals.

The Board considered the proposed amendment at its 5 August 2010 meeting, passed a Resolution approving the amendment to the .JOBS Agreement and authorizing the CEO and the General Counsel to take the necessary steps to implement the amendments. The Resolution was publicly posted on that same day. The Preliminary Report of the Board meeting, noting the vote tally for the Resolution, was posted on 16 August 2010. The Board has not yet considered Minutes of the 5 August 2010 Board Meeting, which will constitute the official record of the meeting; therefore, those minutes are not yet approved or public. In addition, Staff has not yet posted the Board Books of the 5 August 2010 meeting, which is scheduled for posting contemporaneously with the approved Minutes.

In line with the Board's Resolution, on 6 August 2010, ICANN staff executed the approved amendment to the .JOBS Agreement. Since that time, Employ Media launched its RFP process on 26 August 2010.

III. The Coalition's Request.

The Coalition seeks reconsideration of Board's 5 August 2010 approval of Employ Media's Phased Allocation Program to, in the words of the Coalition, "permit registration of names at the second level in the .JOBS TLD for purposes inconsistent with the .JOBS Charter." (Request, Page 1, defining the "Action".)² The Coalition seeks relief in the form of two recommendations from the BGC:

(1) The Reversal of the 5 August 2010 Board Action (Request, Page 2); and

(2) The establishment of clearly defined and publicly available procedures for consideration of future requests that have the affect of amending the Charter of a sTLD.

² The Coalition is comprised of eight association members: (1) AHA Solutions (American Hospital Association); (2) the American Society of Association Executives; (3) the American Staffing Association; (4) CareerBuilder, LLC; (5) the International Association of Employment Web Sites; (6) Monster Worldwide, Inc.; (7) the Newspaper Association of America; and (8) Shaker Recruitment Advertising & Communications) and eighteen individual members of the International Association of Employment Web Sites. (Request, Page 1.) The Coalition states that no member is a part of the .JOBS Sponsored Community, and under the .JOBS Charter, no member is allowed to offer their products or services through a .JOBS domain. (Request, Page 4.)

(Request, Page 2.)

The Coalition also requests a stay of the Board Action pending a decision on the Reconsideration Request, to purportedly alleviate the costs and burdens that will be imposed on Coalition members and trademark holders around the globe. (Request, Page 7.) According to the Coalition, “[c]ommencement of the second level registrations under the Phased Allocation Program process may create enforceable interests in non-company name registrations at the second-level of the .JOBS TLD, making it extremely difficult to undo the harm to members of the Coalition and others affected by the Action.” (Request, Page 8.)

On 2 September 2010, the Coalition submitted to the BGC a Supplement to Reconsideration Request (“Supplement”) providing more discussion on the assertion that Employ Media’s implementation of the approved Phased Allocation plan will violate the .JOBS Charter. (See <http://www.icann.org/en/committees/reconsideration/reconsideration-petition-jobs-supplement-03sep10-en.pdf>.) The Supplement states that the plan “simply ignores the limitation on registrations in the .JOBS Charter” through the consideration of RFPs from applicants who propose to “serve the needs of human resources managers [the Community], whether or not such proposals are submitted by an individual engaged in human resources management.” (Supplement, Page 3.) Further, the Coalition views Employ Media’s solicitation of proposals from Coalition members and others “to operate employment web sites in .JOBS” as an indication “that [Employ Media] has no plans to honor its obligation under the Charter to limit registration at the second level to individuals engaged in human resources management.” (Supplement, Page 3.)

The Coalition points to a proposal from the DirectEmployers Association to operate the “.JOBS Universe” that will provide cross-industry and cross-company job boards in a way that “will perform the core functions of an employment website or career portal, much like the services operated by members of the Coalition.” (Supplement, Pages 4-5.) These sites “provide services to corporate resources managers, but are not themselves engaged in human resources management.” (Supplement, Page 4.) However, the “.JOBS Charter limits registration at the second level in .JOBS to individuals engaged in human resources management. . . . Accordingly, neither DE, nor any member of the Coalition is permitted to register a .JOBS name to provide employment services.” (Supplement, Pages 4-5.)

The Coalition claims that “ICANN is sanctioning a registry operator’s decision to disregard the commitments contained in its Charter, which was the fundamental basis upon which the sTLD was awarded.” (Supplement, Page 5.)

On 20 September 2010, the BGC announced that it would proceed to consider the Request. Shortly thereafter, the BGC crafted questions for Employ Media to assist the BGC in identifying whether all material information was presented to the Board at the time of the Board’s 5 August 2010 decision. Prior to BGC transmittal of those questions to Employ Media, on 14 October 2010, the Coalition provided the BGC with a list of proposed questions for Employ Media. (See <http://www.icann.org/en/committees/reconsideration/coalition-questions-to-bgc-14oct10-en.pdf>.) The Coalition’s questions, however, failed to identify, or relate to, any material information that the Board did not consider at the time of the 5 August 2010 decision. The Coalition’s questions were in large part directed towards compliance-related issues not

before the BGC in this Request. After reviewing the Coalition's proposed questions and the BGC's proposed questions for Employ Media, the BGC concluded that information important to the issue of whether the Board failed to consider available material information were included in the BGC's set of questions for Employ Media. Accordingly, the BGC forwarded its questions to Employ Media on 18 October 2010.

(See <http://www.icann.org/en/committees/reconsideration/bgc-questions-to-employ-media-18oct10-en.pdf>.)

Employ Media responded to the BGC's questions on 25 October 2010.

(See <http://www.icann.org/en/committees/reconsideration/employ-media-answers-to-bgc-25oct10-en.pdf>.) This response confirmed Employ Media's view that the .JOBS Charter was not changed as a result of the Board's approval of the amendment to the .JOBS Registry Agreement, and confirmed Employ Media's intentions to require registrants to meet the Charter requirements. Employ Media also stated that material information relating to the SHRM Policy Development Council vote was available to the Board prior to the 5 August 2010 decision, and Employ Media did not take any steps to interfere with the provision of relevant material to the Board.

On 4 November 2010, the Coalition provided a further supplement to the Request, referencing the board materials and minutes from the 5 August 2010 Board meeting.

(See <http://www.icann.org/en/committees/reconsideration/reconsideration-jobs-supplement-04nov10-en.pdf>, hereinafter "Second Supplement".) In this Second Supplement, the Coalition presented the following additional arguments:

- o The Board should have independently confirmed that the SHRM Policy Development Council considered whether the Charter was going to be altered; reliance upon Employ Media's statement that the Charter was not modified was not sufficient (*see* Second Supplement, Pages 2-3);

- o The minutes of the SHRM Policy Development Council show that it never considered whether the proposed change was a Charter amendment, and Staff did not bring this to the Board's attention (*see* Second Supplement, Pages 3-4); and

- o The Board only relied upon the conclusory statement that there is no change to the .JOBS Charter, and Staff did not answer the Board's questions on this point, including questions of who will operate the registrations (*see* Second Supplement, Page 4).

Attached to the Second Supplement, the Coalition provided an analysis of Employ Media's responses to the BGC's questions. (*See* Analysis of Employ Media's Responses to the BGC's Questions, attached to Second Supplement.) In this analysis, the Coalition called for the BGC to "require Employ Media to account for its statements, positions, and plans." The Coalition identified areas where it believes Employ Media "must" explain or more clearly state its positions, such as explanations of who can register names, an explanation of its relationship with DirectEmployers, and explanations of the "self-managed" class of names. The Coalition also identified additional questions that could be put to Employ Media, including questions relating to RFP responses and the current operations of the Registry.

On 4 November 2010, the BGC submitted questions to SHRM to assist in identifying whether the Board failed to consider material information when it approved the amendment to the .JOBS Registry Agreement. (See <http://www.icann.org/en/committees/reconsideration/bgc-questions-to-shrm-04nov10-en.pdf>.) The questions sought information on SHRM's position of whether the amendment approved by the Board modified the Charter of the .JOBS sTLD, and whether there were changes to the community for the .JOBS sTLD. The questions also sought information regarding SHRM's expectations as to the content on web pages for registrations within the .JOBS sTLD.

SHRM responded to the BGC's questions, on 12 November 2010, noting its belief that the .JOBS Charter had not been changed through the Board's Action, that there have been no changes to the definition of the community served by the .JOBS sTLD, and that the approved changes served the needs of the international human resource management community. (See <http://www.icann.org/en/committees/reconsideration/shrm-answers-to-bgc-questions-12nov10-en.pdf>.)

Thereafter, the Coalition sent a letter to ICANN claiming that SHRM and Employ Media failed to address the questions of the BGC and suggesting that the Coalition and Employ Media (along with SHRM, the BGC and ICANN Staff) meet to address the issues set forth in the Request and clarify any misunderstandings between the parties.

(See <http://www.icann.org/en/committees/reconsideration/burr-to-jeffrey-15nov10-en.pdf>.) On 15 November 2010, SHRM responded to the Coalition letter, noting its disagreement with the characterization of SHRM's responses, as well as the disagreement with the suggestion that SHRM should be a participant in the requested meeting.

(See <http://www.icann.org/en/committees/reconsideration/shrm-response-to-coalition-letter-15nov10-en.pdf>.) SHRM also noted that Employ Media should have been copied on the Coalition's letter.

IV. Purported Grounds For The Request.

The stated ground for the reversal of 5 August 2010 Board Action is: "The Phased Allocation Program violates the .JOBS Charter and as such exceeds the authorization granted to Employ Media by the .JOBS PDP Council." (Request, Page 2.) The Coalition also argues that the Board failed to consider material information in its possession when it took the 5 August 2010 Board Action. (Request, Page 8; Second Supplement, Pages 5-6.) The Coalition does not specify the grounds for seeking the establishment of procedures for future requests that have the affect of amending, but the Coalition discusses ICANN's credibility, ICANN's ability to enforce sTLD commitments, and ICANN's authority to enforce community-based new gTLD commitments as the reasons for seeking this relief.

A. Claims that the Phased Allocation Program Violates the .JOBS Charter.

The Coalition argues that, despite the .JOBS Charter limitation on who may register second-level domains within the .JOBS sTLD, the planned Phased Allocation Program will "remove the Charter limitations on second level registrations by permitting independent job site operators – who are neither members of SHRM or engage in human resources management practices – to expand 'their product and service offerings' into the .JOBS TLD." (Request, Page

3.) According to the Coalition, despite Employ Media’s assertions that the Phased Allocation Program does not amend the .JOBS Charter, “the Phased Allocation Program described in the Application is demonstrably inconsistent with the .JOBS Charter” because it will permit independent employment site operators to use second-level registrations in the .JOBS sTLD.” (Request, Page 3.) “Thus, absent a Charter amendment, the Phased Allocation Program violates the .JOBS Charter.” (Request, Page 3.) In its Supplement, the Coalition argues that Employ Media’s RFP process makes clear that Employ Media is not abiding by the registration limitations imposed by the Charter, but is instead looking to applicants who can service the Community without analysis of qualification. (Supplement, Page 4.) And in its Second Supplement, the Coalition claims that there is “abundant evidence of Employ Media’s plan to expand the universe of potential registrants in .JOBS to ‘any business’ for any purpose.” (Second Supplement, Page 6.)

The Coalition argues that the SHRM Policy Development Council did not give authority to Employ Media to change the .JOBS Charter, as Employ Media is restricted to “registrations that are consistent with the .JOBS Charter.” (Request, Page 3.) Further, “even if the [SHRM Policy Development] Council had authorized Employ Media to seek a change in the .JOBS Charter, any such change should be the subject of careful consideration by the ICANN Community and the ICANN Board.” (Request, Page 3.)³

The Coalition also argues that this alleged Charter amendment has the practical effect of changing the scope of those allowed to register second-level domains within the .JOBS sTLD without any corresponding ability for these new registrants to be members of the community served by the .JOBS sTLD. (Request, Page 5.) These independent job site operators do not have a “voice in the policies that will govern their registrations in .JOBS.” As such, they will “bear the costs of, but will have no meaningful voice in the development of, .JOBS policies and procedures.” (Request, Page 5.) The Coalition highlights the increased burdens that will be placed on its members, as well as others, in needing to protect trademark interests “without providing any of the mechanisms for affected parties to protect their trademark interests that [Draft Applicant Guidebook, Version IV] requires of all new gTLD operators.” (Request, Page 5.) According to the Coalition, this broadening of the community is counter to the representations made by Employ Media at the time of application for the sTLD, where Employ Media focused on the benefits achieved by the “narrow community to be served and the value of a TLD that reflected the ‘relationship of employer and job seeker.’” (Request, Page 5, citing Employ Media’s Responses to Questions, at <http://www.icann.org/en/tlds/stld-apps-19mar04/PostAppC.pdf>.)

The Coalition further argues that the trademark costs that will be borne by its members and others “reverse” the commitments made by Employ Media in its application for the .JOBS

³ The Coalition also cites to language within the .JOBS Registration Agreement, at <http://www.goto.jobs/reg.agreement.asp>, regarding the a restriction for using a `companyname.jobs` registration for third party information, including the restriction that an entity holding a `companyname.jobs` registration cannot contain listings for outside of its company. (Request, Page 2.) The Request also cites to the .JOBS sTLD Application, but the cited language is not included therein.

sTLD, where it noted that: “trademark infringement, is of lesser concern as such relates to the .jobs TLD. *As the Charter ...prohibits all registrations which are not trade names or commonly-known names*, few (if any) applications for trademark.jobs will get through Employ Media’s screening process. This means that there will be little pressure on current trademark holders to believe that they have to defensively obtain all of their “trademark.jobs.” (Request, Pages 6-7.) Had this broader scope of the .JOBS sTLD been made apparent at the time of application, the Coalition notes that “[independent employment sites could have and would have had the opportunity to register their opposition to the sTLD application. . . . [or] ensure that the interests and concerns of independent employment site operators received meaningful consideration in the policy formulation process for .JOBS.” (Request, Page 7.) The Coalition’s focus on the limited scope of the trademark protections required at the start-up of the .JOBS sTLD is understood to reference that, if the types of registrations within the .JOBS sTLD had been broader from the outset, members of the Coalition would have sought for sunrise provisions to be included in the .JOBS sTLD start up plan. Here, the types of registrations are broadened without any opportunity for sunrise trademark protections for those who may have trademark or other intellectual property rights in the combinations of geographic and industry identifier-names that will be allowed under the approved amendment.

According to the Coalition, this broadening of the .JOBS sTLD will create a precedent for any new community-based TLD to return to ICANN in the event the initial business model does not “work out,” and to allow the elimination of “registration limitation that allowed [the applicant] to win ICANN Board approval in the first place.” (Request, Page 7.)

B. Claims that the Board Failed to Consider Material Information.

The Coalition also bases its Request on its assessment that, in taking the 5 August 2010 Action, the Board only considered the ICANN Staff Summary and Analysis of Comments for Phased Allocation in .JOBS, which was finalized three days before the Board’s consideration. The Summary, according to the Coalition, was “clearly rushed” and “failed to adequately account for either the breadth or depth of comments and boils down complex argument to a form that loses most if not all of its meaning.” (Request, Page 8.) Further, according to the Coalition, the Summary did not give adequate consideration of the coordinated responses against the Amendment as it did the coordinated responses in favor of the amendment. (Request, Page 8.) Therefore, “Board members relying on the staff summary of the comments submitted in response to the Employ Media Application necessarily failed to consider significant information regarding this Application.” (Request, Page 8.)

In support of its assertions of the lack of Board consideration of material information, the Coalition presents what it deems an independent evaluation of the Summary, which provides additional statistics analyzing the public comment forum and then provides commentary on the flaws in the ICANN Public Comment and review process. (Independent Evaluation, at Attachment B of Request.) The Coalition, states that “the failure of the process in this case, which led to an immediate Board decision, is the clearest indication so far that ICANN needs to develop standard Rules, procedures and guidelines for what is a crucial component of the organization’s decision-making processes.” (Request, Page 9.)

The Coalition also argues that this “information vacuum” is demonstrated in the statements of Mike Silber, who abstained from voting on the Amendment, wherein he asserted that “I have no principle objection to policy development in the sponsored gTLDs, however the proposed extension purports to extend one element of the Charter - namely the names that can be registered - but not the pool of registrants. I do not believe that this has been sufficiently explored for me to support the resolution and yet have no objective indicator of potential negative impact to oppose it. As such, I am compelled to abstain.” (*See* Second Supplement, Page 5.)

VI. Analysis of the Request and Recommendation.

As an initial matter, it is the recommendation of the BGC that the Request for a stay of the Board Action pending a decision on the Request is moot as the Amendments were executed prior to the Coalition’s submission of the Request and given the recommendation below.

As to the Coalition’s Request for reconsideration of the 5 August 2010 Board Action, it is the recommendation of the BGC that the Request be denied as unsupported. First, the Coalition bases its Request on an assumption that Employ Media will operate the .JOBS sTLD in a manner that violates the .JOBS Charter, and not on facts borne out by the publicly-available information on the Amendment. The SHRM PD Council restricted Employ Media to “maintain adherence to the .JOBS Charter.” (<http://policy.jobs>.) Further, Employ Media notes that “Plans will be evaluated by Employ Media for compliance with the .JOBS Charter.” (RSEP Proposal, Page 5.) As discussed above, this was confirmed in Employ Media’s and SHRM’s responses to the BGC’s questions.

The Coalition’s only support for its assertion that the Charter will be violated is the statement in the RSEP Proposal that “Independent job site operators in other TLD’s may be affected by the introduction. Some have indicated a positive interest to submit an RFP if such were made available. Others have indicated that the proposed registry service could enable an expansion of their product and service offerings in new/innovative ways.” (RSEP Proposal, Page 10.) But this statement does not suggest that independent job site operators who do not qualify for registration under the .JOBS Charter will be allowed to take advantage of the .JOBS “expansion” opportunities. If implementation of the Amendment causes Employ Media to violate its contractual requirements set out in the .JOBS Charter, that is something that ICANN’s Contractual Compliance Department must address.

Further, the Coalition notes that no member of the Coalition is a member of SHRM or a member of the sponsored community, and they will therefore be harmed by alleged expansion of the pool of registrants without a voice in the community. Jobing, Inc., one of the individual members of the Coalition, previously had a representative on the SHRM Policy Development Council – a member that resigned immediately prior to the vote on the proposed Amendment. Moreover, there is no indication that the independent job site operators – such as Jobing – are prohibited from qualification as members of SHRM (or the community) and from participation in the policy development process for the .JOBS sTLD. Instead, the record shows that such operators are able to participate in the process.

In terms of the trademark harms that are alleged to result from the expansion of the .JOBS sTLD, the Request is based on the assumption that modifications to all existing TLD Registry Agreements shall be subject to the trademark protections that are anticipated for inclusion in the New gTLD program. The New gTLD program has not been finalized, and holding existing registries to trademark protections developed for the New gTLD Program is not contemplated in any event. Moreover, contrary to the suggestion that no trademark protections will exist in the wake of the amendment, the .JOBS sTLD already has trademark protections built in; as with all other gTLDs in existence, all registrations in the .JOBS sTLD are subject to the Uniform Domain Name Dispute Resolution Process (“UDRP”). Further, requirements for companyname.jobs registrations are not relaxed.

ICANN has the RSEP process so that Registries are able to innovate. Within the sTLD realm, such innovation may require the involvement of a sponsoring organization, to oversee the creation of and implementation of policies in the interests of the community. The RSEP process contains the protections that the Coalition is seeking, ensuring public comment and Board review for material changes to registry agreements, therefore no action is necessary or recommended on this item in the context of the Reconsideration Request.

The Coalition’s assertion that the Board failed to consider material information available at the time of its Action is also not supported. The Coalition bases this argument on the claimed insufficiency of the Staff Summary and Analysis of Public Comments. Many of the issues raised in the Coalition’s Request appear within the Staff Summary and Analysis of Public Comments, including discussions regarding the modification of the sponsored community within the .JOBS sTLD, the potential implication on ICANN’s introduction of community-based TLDs, and the lack of representation of the coalition members through SHRM. The Board also had access to the Public Comment forum to review the letters in full. Moreover, the Coalition did not offer any additional material information to support its Request aside from the Independent Analysis of the Summary – a document that was not available at the time of the Board decision. Based upon a comparison of the arguments raised in the Request to the matters included within the Summary, the Board had available to it all material points that the Coalition raised. Finally, contrary to claims in the Coalition’s Second Supplement, the Minutes of the 5 August 2010 Board Meeting demonstrate that a fulsome deliberation was undertaken on issues raised in the Request, such as compliance with the .JOBS Charter as well as the positions of those opposed to the amendment, in order to reach the non-unanimous Board decision. (See <http://icann.org/en/minutes/minutes-05aug10-en.htm>.) Although the Coalition claims that Mr. Silber’s abstention demonstrates that the Board was not provided with material information on this topic, the ability for Mr. Silber to frame his objection as he did makes clear that the concerns presented in the Request were before the Board. The fact that one Board member wished for additional information does not support an inference that the Board – as a whole – did not have material information sufficient to act.

In sum, the Coalition’s concerns regarding potential violations of the Charter in the implementation of the Phased Allocation Program is not a proper ground for reconsidering the Board’s 5 August 2010 Action. Further, the Board did not fail to consider material information available at the time of the Action. Nevertheless, the BGC does think that Employ Media’s compliance with its Charter is crucial. Given the highly disparate views presented by the parties involved with the Request, the BGC is not at all clear that it has a full picture of how Employ

Media intends to implement the Phased Allocation Process. For example, when concerns were raised about the self-managed class of names referenced in the proposal and Employ Media's responses to the BGC questions, that potential implementation method was withdrawn by Employ Media. Therefore, the BGC recommends that the Board direct the CEO, and General Counsel and Secretary, to ensure that ICANN's Contractual Compliance Department closely monitor Employ Media's compliance with its Charter.⁴

⁴ The BGC also thinks that the Board should address the need for a process to evaluate amendments that may have the effect of changing, or seeking to change, an sTLD Charter or Stated Purpose of a sponsored, restricted or community-based TLD. Because such a process may impact gTLDs greatly and is a policy issue, the GNSO is the natural starting point for evaluating such a process. We therefore further recommend that the Board direct the CEO to create a briefing paper for the GNSO to consider on this matter, and for the GNSO to determine whether a policy development process should be commenced.

EXHIBIT T



TRANSMITTED VIA ELECTRONIC MAIL, FACSIMILE & COURIER SERVICE

27 February 2011

Mr. Brian Johnson, General Counsel
Mr. Ray Fassett, EVP, Operations & Policy
Employ Media LLC
3029 Prospect Avenue
Cleveland, Ohio 44115

RE: NOTICE OF BREACH OF .JOBS REGISTRY AGREEMENT

Dear Messrs. Johnson and Fassett:

Be advised that as of and before 28 February 2011, Employ Media is in breach of its Registry Agreement between the Internet Corporation for Assigned Names and Numbers (“ICANN”) and Employ Media LLC (“Employ Media”). As explained below, this breach results from Employ Media and its sponsoring organization, the Society of Human Resource Management’s (SHRM) failure to establish policies, in conformity with the defined purpose and intent of the .JOBS registry; and further may be inconsistent with the .JOBS Charter for the naming conventions within the sponsored TLD and for requirements of registration as required by Section 3.1(d)(i)(A) of the .JOBS Registry Agreement. Should Employ Media fail to cure this breach within 30 calendar days, ICANN may commence the termination process as set forth in Section 6.1 of the .JOBS Registry Agreement. To cure this breach, Employ Media must establish meaningful registration policies, in conformity with the .JOBS Charter, for the naming conventions within the sponsored TLD and for requirements of registration.

In addition to Employ Media’s breach of its Registry Agreement, Employ Media’s failure to operate and manage the .JOBS TLD in a manner consistent with the spirit and intention of the .JOBS registry and .JOBS Charter has substantially frustrated the primary purpose of the .JOBS Registry Agreement. We are calling on Employ Media to take immediate actions to implement restricted registration policies that support the purpose for which the .JOBS top-level domain was established, and to cancel registrations and/or disavow themselves of the benefits of any registrations that are owned by related parties, if any.

Brussels	6 Rond Point Schuman, Bt. 5	B-1040 Brussels	BELGIUM	T +32 2 234 7870	F +32 2 234 7848
Sydney	Level 2, 48 Hunter Street	Sydney NSW 2000	AUSTRALIA	T +61 2 8236 7900	F +61 2 8236 7913
Washington, DC	1875 I Street, NW, 5th Floor	Washington, DC 20006	USA	T +1 202 429 2704	F +1 202 429 2714
Marina del Rey	4676 Admiralty Way, Suite 330	Marina del Rey, CA 90292	USA	T +1 310 823 9358	F +1 310 823 8649

<http://icann.org>



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Employ Media
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Failure to Establish Policies in Conformity with the Intent and Purpose of the .JOBS Registry and the .JOBS Charter

Pursuant to Section 3.1(d)(i)(A) of the .JOBS Registry Agreement, Employ Media is required to establish policies, in conformity with the Charter, for the naming conventions within the sponsored TLD and for requirements of registration, consistent with Section 3.1(g). In Section 3.1(g) of the .JOBS Registry Agreement, ICANN acknowledges that Employ Media engaged SHRM, as the sponsoring organization for the TLD, to carry out the responsibilities associated with the development of policies for the .JOBS TLD. Pursuant to Part II of Appendix S of the .JOBS Registry Agreement, SHRM is responsible for developing policies concerning the restrictions on what types of people or entities may register second-level domain names within the TLD.

Employ Media and SHRM failed to establish any meaningful restrictions on what types of people or entities may register second-level domain names within the .JOBS TLD. By not establishing any meaningful restrictions on who may register second level registrations in the .JOBS TLD, Employ Media put in operation a TLD where anyone can register names, thus defeating the purpose for which the sponsored TLD came into existence. The lack of meaningful restriction on registrations is clearly set forth in the .JOBS Charter, which reads,

The following persons may request registration of a second-level domain within the .JOBS TLD:

- Members of SHRM; 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 Ethics and Professional Standards in Human Resources Management..."

While seemingly restrictive to human resource management professionals, the above Charter language is specious. Anyone willing to pay the \$40.00 membership fee to SHRM may become an associate member of SHRM, as there are no restrictions to membership, other than payment of annual membership fees. Accordingly, anyone can register a second-level domain name within the .JOBS sTLD, as long as they pay a \$40.00 membership fee to SHRM to become an associate member.

There is not sufficient information to confirm that Employ Media or SHRM conducted a meaningful process for changing the registration criteria. The registration policy shift clearly represents a basic and fundamental change to the qualifications for registration which differ from the original intent and purpose of the .JOBS Registry Agreement and the Charter.

It is unclear from responses gathered from SHRM or Employ Media, whether a change to these registration policies was appropriately communicated within the community impacted by this change. It appears that the adjustments to registration policies was exploiting broad wording within the Charter to justify a fundamental change which inures benefit to SHRM and Employ Media, at the detriment of



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some participants of the human resources community, that did not have any way of understanding the broad nature of this category of registrations at the time of the application for the registry.

Pursuant to the .JOBS Charter, the TLD was "...established to serve the needs of the international human resource management community..." However, the specious restrictions established by Employ Media and SHRM regarding what types of people or entities may register second-level domain names within the .JOBS TLD do not serve the international human resource management community. Human resource management experience, skills nor education are required to become an associate member of SHRM nor is it required to register a second-level domain name within the .JOBS TLD. Conversely, the loose restrictions established by Employ Media and SHRM appear to exclusively serve the financial interests of Employ Media and SHRM.

Employ Media and SHRM's failure to establish policies in conformity with the .JOBS Charter for the naming conventions within the sponsored TLD and for requirements of registration, consistent with Section 3.1(g) is a breach of the .JOBS Registry Agreement.

To cure this breach, Employ Media, through its sponsoring organization, SHRM, must develop and implement meaningful restrictive policies in conformance with the .JOBS Charter regarding what types of people or entities may register second-level domain names within the .JOBS TLD. These registrations policies *must serve the needs of the international human resource management community*.

ICANN is concerned that Employ Media and SHRM are not operating and managing the .JOBS TLD in a manner consistent with the spirit and intent of the .JOBS Charter. The .JOBS Charter clearly states that the TLD will be established to serve the needs of the international human resource management community.

The recently launched *universe.jobs* appears to be a job board that advertises job openings for multiple employers. It is our understanding that one registrant, who is a member of SHRM, registered forty thousand second-level domain names in the .JOBS TLD for use on this job board. It appears that Employ Media and SHRM, through the Direct Employers Association, intend to use the .JOBS TLD primarily to compete with other internet job boards. Such use is inconsistent with the purpose stated in the .JOBS Charter and represented to the ICANN community. As opposed to numerous, international, human resource management professionals registering second-level .JOBS domain names, it appears one US-based registrant is registering thousands of second-level .JOBS domain names. These registrations appear to serve the interests of the registrant or company causing the registrations, as well as Employ Media and SHRM rather than the interests of the human resource management professionals.

Conclusion

Employ Media and SHRM's failure to establish policies, in conformity with the defined purpose and intent of the .JOBS registry is inconsistent with the .JOBS Charter for the naming conventions within the sponsored TLD and for requirements of registration as required by Section 3.1(d)(i)(A) of the .JOBS Registry Agreement, and such other relevant sections of the agreement.



Messrs. Johnson and Fasset
Employ Media
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As previously stated, ICANN may, pursuant to Section 6.1 of the .JOBS Registry Agreement, terminate the Registry Agreement before its expiration if the stated breach is not cured within 30 calendar days after ICANN gives notice of breach.

We are calling on Employ Media to take immediate actions to implement restricted registration policies that support the purpose for which the .JOBS top-level domain was established, and to cancel registrations and/or disavow themselves of the benefits of any registrations that are owned by related parties, if any. ICANN specifically reserves the right to pursue any and all remedies relating to the above or other breaches in addition to the breach enumerated above, and nothing herein shall be deemed a waiver of that right.

If you have any questions regarding the above, please feel free to contact me directly, or contact Stacy Burnette, Director of Contractual Compliance at [Stacy.Burnette \(at\) ICANN.org](mailto:Stacy.Burnette@ICANN.org).

Sincerely,

A handwritten signature in black ink, appearing to read "John O. Jeffrey", with a large, sweeping flourish extending to the right.

John O. Jeffrey
General Counsel & Secretary

CC: Stacy Burnette, ICANN
Amy Stathos, ICANN