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Dear Mr. Chehadé,

I would like to follow up on the Ministry's previous correspondence with regard to the delegation of „.gmbh“ as a Top Level Domain. As ICANN has sent us the envisaged wording of the relevant public interest commitment (PIC) on 2 June we now have the opportunity to assess the situation at hand.

I understand that the following wording is being proposed:

Registrants in the TLD utilizing the GmbH (Gesellschaft mit beschränkter Haftung) designation in its domain name must follow applicable law with regard to the use of such a designation. The TLD is intended for use of limited liability entities in Austria, Germany, Liechtenstein or Switzerland; those providing services to designated GmbH's; and those otherwise engaged in lawful conduct. Upon complaint of violation of the above, Registry Operator will work with the applicable public authorities in Austria, Germany, Liechtenstein or Switzerland to determine if registrants are acting in violation of applicable law and take appropriate action in cases of actual violation.

The general concerns about the use of „.gmbh“ as a TLD, raised in early warnings of November 2012, with letters of 9 July 2013 and 25 August 2014 as well as the GAC advice on sensitive strings from 11 April 2013 do not seem to be dispelled by the proposed wording. It is further worth noting that the registry operator was chosen in an auction after the above mentioned correspondence and after the GAC advice; we would further like to recall that there were applicants for „.gmbh“ who committed themselves to comply with the requirements mentioned in that correspondence.

The use of the corporate identifier „GmbH“ is highly regulated under German law. Any misuse of this identifier can be prohibited and fined even if no third-party rights have been infringed. Any TLD ending in „.gmbh“ implies that its user is indeed a limited liability entity according to the legal definition of this term. This applies just as much to

Page 2 / 2 the intended use for those providing services to GmbH's as there are no mechanisms contained in the PIC to verify if such a use of ".gmbh" is indeed intended and does not create the impression of dealing with an entity that is itself a GmbH.

The same caveat applies to entities which are still in their founding stages. Under German law, this nascent state has to be clearly signified by the addition of "in Gründung" (i.e. "in the course of formation") to the term GmbH. As this addition will not be possible while using the TLD ".gmbh" it is highly advisable to reserve the desired domain name but only allow its use once the formation of the actual GmbH has been verified. No such provisions are contained in the proposed PIC text yet.

Consequently we strongly urge ICANN to reconsider the wording of the PIC in question, not least in keeping with the Federal Trade Commission's advice to John O. Jeffrey from 27 May. The FTC urges ICANN to follow GAC advice on sensitive strings in highly-regulated sectors (which encompasses ".gmbh") and requests the verification of credentials before the users of such TLDs do business with the public.

The Ministry welcomes the FTC's support of the GAC's initiative to combat fraud, favoring a concerted approach that protects consumer rights. We hope that you will join this effort, too.

Yours sincerely,

A handwritten signature in blue ink, consisting of several stylized, overlapping loops and lines, positioned below the text "Yours sincerely,".