

1210 Brussels, the 20th of March 2014

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**Subject: Procedure for the attribution of the new ".spa" gTLD (applications no 1-1309-12524 and no 1-1619-92115) – ICANN GAC 49 Singapore, 23 to 27 March 2014.**

Dear Mr Chehade,  
Dear Mr Crocker,

This letter relates to the attribution procedure of the new ".spa" gTLD and follows the mail of Steve Crocker of 7 February 2014, addressed to the President of the GAC regarding this issue.

Three demands were introduced in 2012 regarding the new ".spa" gTLD. To this day, there remain two applications (no 1-1309-12524 and no 1-1619-92115).

"Spa" can have different significations according to the context, beyond its generic meaning. In Europe in particular, this term corresponds undoubtedly to the geographical name of the town of Spa in Belgium, famous for its thermal spring water, and which became synonymous with any infrastructure owning a spring with healing properties.

You will find enclosed a copy of the letter of the town of Spa, which mentions, among other things, the typology of the term "spa" and demonstrates the close link with the activities of hydrotherapy. The Applicant Guidebook gTLD (section 2.2.1.4.2) stipulates that any application for a town name, where the applicant declares that it intends to use the domain name for purposes associated with the city name must be accompanied by documentation of support from the public authorities. It appears clearly in the statements of one of the applicants that he will use the TLD primarily for these purposes (thermal and wellness or health care centers) associated with the name of the town, and that the proposed string (".SPA") is identical to the town of Spa as reflected in the official municipal documents. This risk of confusion is expressly recognized by this applicant.

Besides, the Belgian law of 26 June 2003 concerning abusive registration of domain names gives the town of Spa the right to appeal against any owner of a ".spa" domain name domiciled in Belgium, which could be detrimental to its interests. As a result, the domain names ".spa" might not be usable on the Belgian territory if no agreement can be found between this Authority and the register concerned.

With respect to these elements, Belgium indicated that it supported the principle of attribution of the ".Spa" gTLD, provided that this procedure is done in accordance with the interests of the stakeholders and with the applicable law. This is the reason why, according to the procedure of the Applicant Guidebook (Module 3 section 3.1), Belgium asked the GAC to review the applications concerned.

In its opinion of 11 April 2013 given in Beijing, the Governmental Advisory Committee (GAC) of the ICANN added the ".spa" to the list of geographical strings where further ICANN consideration have to be warranted. In response to this opinion, one applicant has withdrawn its application.

This request was reiterated in the opinion of Durban by the GAC members and in the opinion of Buenos Aires. The GAC asked three times the ICANN not to exceed the initial review stage of the nominations, until no agreement is reached between the parties concerned. This opinion has been accepted by the NGPC in its resolutions of 5 February 2014

To this day, there remains one community demand introduced by the "Asia Spa and Wellness Promotion Council Limited" (ASWPC), whose object is limited to the promotion of enterprises active in the balneotherapy treatments, and one demand from "Donuts Inc". In accordance with the opinion of the GAC, the town of Spa contacted those two applicants in order to conclude an agreement, which prescribes a series of guaranties for the register.

In June 2013, an agreement was reached with ASWPC in the form of a "Memorandum of Understanding". For the sake of transparency, this document has been communicated on 13 November 2013 to all GAC members and to Donuts Inc. To ensure the principle of equality between applicants, the town of Spa has agreed to extend the negotiations with the remaining applicant. However, these discussions have not met a positive way out yet.

In conclusion, these elements show that the ".spa" gTLD was identified, thrice and clearly, by all GAC members as a geographical domain name likely to prejudice the interests of the Spa authorities.

Belgium considers that the negotiations between the stakeholders are closed and that it is no longer necessary to delay the attribution procedure of the gTLD. Therefore, in accordance with the principles of the Applicant Guidebook and with the national regulations applicable to new gTLD's, Belgium requests the Board of Directors of the ICANN to delegate the new ".spa" gTLD to the candidate who has a formal agreement with the local authorities of Spa and in respect of the public interest.

Yours faithfully.



Johan Vande Lanotte  
Deputy Prime Minister  
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