



February 5, 2015

RE: Update on Expressed Opposition to dotgay LLC (Application ID# 1-1713-23699)

To ICANN and the Economist Intelligence Unit,

Before the CPE panel begins evaluating the community application for .GAY, we feel it imperative to bring to light developments that challenge the relevancy of the single letter of opposition to dotgay LLC.

To start, dotgay LLC would like to highlight that the proposed .GAY community application received almost 250 written expressions of support and endorsement from around the globe – many from gay community umbrella organizations representing thousands of additional organizations and interest groups. Each letter contained unique expressions and hopes for a community .GAY that reflects the needs and interests of the LGBTQIA. Not only does this represent a tremendous level of communication, education and engagement that has been invested in a community .GAY model, but an unambiguous snapshot of community aspirations.

To our knowledge, only one letter was produced expressing very narrow opposition to dotgay LLC's proposed community model, submitted by Barbara McCullough-Jones from Q Center in Portland Oregon. It should be noted that the opposition expressed is largely linked to unfounded accusations regarding censorship and a suggestion that dotgay LLC assumes some form of gatekeeping role and autonomy over policy development in the community model. It remains our opinion that the author was misinformed on the actual contents of our application at the time the letter was written, drawing questionability to overall relevance of the opposition.

The CPE guidelines state:

When scoring "Opposition," previous objections to the application as well as public comments during the same application round will be taken into account and assessed in this context. There will be no presumption that such objections or comments would prevent a score of 2 or lead to any particular

score for "Opposition." To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant.

Below are a few examples of communications sent by another .GAY applicant in an active attempt to misinform and misrepresent the facts within dotgay LLC's community application. Even supporters involved in the development of the dotgay LLC community application received such communications. When compared to the assertions in the Q Center letter, similarities are easily drawn. McCullough-Jones' claims regarding censorship, gatekeeping and policy autonomy are unsubstantiated based on facts within the application, appearing to be more about obstruction than legitimate concern. This brings relevance into question. The applicant responsible for the communications is Top Level Design, coincidentally also located in Portland.

In addition, dotgay LLC has previously been scrutinized against claims of a similar nature in the community objection process. Claims of censorship and gatekeeping were raised by Metroplex Republicans of Dallas and later classified as having no merit following review of the dotgay LLC application by the community objection expert panelist. The objection was dismissed because the claims were unsubstantiated.

The [determination](#) from the community objection states the following:

In fact, it is in dotgay's social, political, and economic interest to be as encompassing as possible and to embrace the conservative segment of the LGBTQ community as fully as other segments. If an LGBTQ individual or group of whatever leaning should be discriminated against despite this, the operational model has, as pointed out in dotgay's application under 20(e), an Ombudsman and an appeals mechanism to rectify the wrong.

In December 2014, McCullough-Jones [resigned](#) from her position as the Executive Director at Q Center, amid a cloud of controversy reported as relating to the delivery of services and concerns about financial stability of the center. To rebuild community trust [Q Center has announced](#) that many staff and board members have also resigned and an almost entirely new interim board has been formed to help determine the future of the community center. A report published by the center on [February 1](#) identifies the crisis the center is currently facing and that it is operating without an Executive Director or other key staff. The same report also signals a possible closure of the facility if funding is not secured to ensure continued operation past March 31, 2015.

dotgay LLC has been in touch with the new interim board and a board advisor, however given the crisis at hand we have been informed that until the crisis has passed there is no possibility for the letter submitted by McCullough-Jones to be discussed further.

Given these recent developments and uncertainty of Q Center's future, dotgay LLC requests the CPE panel to properly weigh this lone letter of opposition against the global support shown. This is especially important given the misguided expressions of concern contained in the letter, which are not based on facts from the actual application and which bring relevance into question.

dotgay LLC would like to express our deepest wishes for a quick rebound and prosperous future for Q Center so they can continue to serve the greater Portland area.

Best regards,



Jamie Baxter
Vice President of Marketing
dotgay LLC

References:

<http://www.pqmonthly.com/q-center-ed-resigns-bro-help-steer-community-conversation-q-centers-future/21228>

<http://www.pdxqcenter.org/interim-board-appointed-to-stabilize-q-center-engage-community-about-centers-future/>

<http://www.pdxqcenter.org/wp-content/uploads/2015/01/QCenterReportFINAL.pdf>

<http://newgtlds.icann.org/sites/default/files/drsp/25sep13/determination-1-1-1713-23699-en.pdf>

Examples of misinformation & misrepresentation spread by Andrew Merriam of Top Level Design that are consistent with the unsubstantiated claims being made in the Q Center letter:

Example One:

From: Canadian Gay Chamber
Sent: Monday, October 14, 2013 11:43 AM
To: bruce@cglcc.ca
Reply To: andrew@tldesign.co
Subject: Canadian Gay Chamber Contact Form

Name: Andrew Merriam
E-Mail: andrew@tldesign.co
Phone: 1.505.238.9166

Website E-Mail Message

Mr. McDonald & The CGLCC I'm writing to you concerning a letter sent by yourself in March 2011 indicating The NGLCC's support of the .gay top level domain [TLD]. The issue at hand is the assignment of the ".gay" top-level domain, which will function much like other current TLDs, such as .com, .net and .org . Your original letter can be found here: <http://dotgay.com/endorsements/lgbt-business> There have been a number of developments related to the delegation of the .gay TLD since your letter was submitted. You were originally contacted by a particular applicant for .gay, a company called dotgay LLC, there are another 3 organizations that have applied; I represent one of those. I note that you do not specifically mention dotgay LLC or supporting them in your letter, but I would like to raise a few developments related to .gay. For example, dotgay LLC's application has now been published, and is the only application that proposes to limit both content and access, in a way that will censor and restrict the diverse LGBT community. Perhaps most important, however, is the fact that dotgay LLC, along with its partner ILGA, have officially objected to a completely separate application for ".lgbt." This means that they are intent on removing an important choice that the LGBT community should have. We view this as a confirmation of the closed and self-serving model for .gay that would result from their management of the TLD. I would love to talk to you more about .gay, including our own application - and I hope that you would consider clarifying your letter of support that is being used by dotgay LLC's to further its restrictive plans for .gay and tied to their antagonistic approach to the community evidenced in their objection to .lgbt. Sincerely, Andrew Merriam

Example Two:

From: Angela Giampolo <angela@giampololaw.com>

Date: November 21, 2013, 5:30:27 PM GMT-03:00

Subject: From your friend Merriam

Hello again,

I wanted to provide you with an update, the ILGA recently lost its formal objections against dotgay LLC's three competitors for .gay, ourselves included, and also its formal objection against the .lgbt TLD. This means that the .lgbt TLD will be allowed to reach the Internet, and that it be widely available and not restricted.

The fundamental difference between ourselves and dotgay LLC is that we do not believe that any person should have to "authenticate" their gender and/or sexual identity to purchase a product. Furthermore, dotgay LLC's plan to censor "objectionable" content will not serve the dynamic opinions and debate that happen across the LGBTQ+ spectrum.

Below, I've included some links to some further information on the process and our position. I would certainly welcome the opportunity to talk to you regarding the benefit of our model, which promises an accessible and uncensored .gay TLD.

Sincerely Yours,

Andrew Merriam

Example Three:

----- Forwarded message -----

From: Andrew Merriam <Andrew@tldesign.co>

Date: Thu, Nov 21, 2013 at 11:53 AM

Subject: Our vision for an open & unrestricted .gay TLD

To: CBWood@lgbttechpartnership.org

From: Andrew Merriam <Andrew@tldesign.co>

Subject: Our vision for an open & unrestricted .gay TLD

Message Body:

Dear LGBTTECH,

I represent one of the 4 applicants for the .gay TLD. I know from public correspondence that you have been in contact with one of our competitors, dotgay LLC.

As you may be aware, the ILGA recently lost its formal objections against dotgay LLC's three competitors for .gay, ourselves included, and also its formal objection against the .lgbt TLD. This means that the .lgbt TLD will be allowed to reach the Internet, and that it be widely available and not restricted.

The fundamental difference between ourselves and dotgay LLC is that we do not believe that any person should have to "authenticate" their gender and/or sexual identity to purchase a product. Furthermore, dotgay LLC's plan to censor "objectionable" content will not serve the dynamic opinions and debate that happen across the LGBTQ+ spectrum.

I would certainly welcome the opportunity to talk to you regarding the benefit of our model, which promises an accessible and uncensored .gay TLD.

Sincerely Yours,

Andrew Merriam