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29 August 2017

Mr. Paul Diaz
Chair, gTLD Registries Stakeholder Group

RE: New gTLD Registry Fee Offset Proposal

Dear Mr. Diaz and members of the gTLD Registries Stakeholder Group,

Thank you for your proposal of 14 March 2017, regarding new gTLD registry fees. Your letter has been published to the ICANN correspondence page (https://www.icann.org/en/system/files/correspondence/diaz-to-atallah-et-al-14mar17-en.pdf).

We sympathize with the financial challenges that some new gTLD registry operators may be facing in the early periods of these new businesses. New gTLD Operators face a challenging task of building consumer awareness and this can and may take significant time and effort. ICANN remains committed to supporting the evolution of the robust, stable and trusted domain name marketplace, and new gTLDs are part of this evolution. ICANN recognizes the challenge you cited related to universal acceptance of TLDs, in particular IDN TLDs. ICANN has established the Universal Acceptance Steering Group to help address some of these challenges. This effort is being funded from the New gTLD program application fees. By the end of FY18 ICANN will have committed several million dollars to this effort.

We appreciate that the gTLD Registry Stakeholder Group (RySG) has developed a proposal to offset New gTLD Operator fees for ICANN's consideration. Your proposal requests ICANN to provide a one-time credit to new gTLD registry operators of 75% of the annual fixed registry fee ($25,000 USD) using a portion of what your proposal characterizes as $96 million of projected remaining funds from the New gTLD Program applications fees. In your letter you assert a fiduciary duty on ICANN to refund the excess funds from the New gTLD program to the registry operators, to be clear, ICANN does not agree with this assertion.

Your letter cites obstacles related to competing in the domain name market place due to the fixed registry fee structure of the New gTLD Registry Agreement. The current registry fee structure, comprising fixed and registration-based fees, was outlined in the Section 6.1 of the Base Registry Agreement and published as part of the New gTLD Applicant Guidebook (AGB)[1]. It was subject to several rounds of public comment from the wider ICANN community as part of the AGB development process, and the fee structure and amount have not changed since the ICANN Board approved the AGB in 2011[2].

As you are aware, the 2012 round of the New gTLD Program is still underway, and a portion of the remaining funds are required for the ongoing operation of the program. As noted in ICANN's FY18 Operating Plan and Budget, ICANN expects to have spent approximately $214

[1] See https://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf
[2] See https://www.icann.org/resources/board-material/resolutions-2011-06-20-en

million on the Program, including “hard-to-predict” costs incurred in FY18 and in the future[3]. To date, ICANN has spent Program funds on a range of previously unforeseen expenses including the formation and coordination of the Universal Acceptance Steering Group, Emergency Back-End Registry Operator Program operations, studies and mitigation plans relating to Name Collision, implementation of the Trademark Clearinghouse, support for the administration of ICANN Accountability Mechanisms, and legal fees and costs relating to the New gTLD Program. The remaining Program funds are intended to cover operating expenses and future unanticipated costs such as those listed above, which continue to occur on an ongoing basis.

We do not yet know how much of the New gTLD Program remaining funds will be required to address future unanticipated expenses, and by when. As such, at this time, ICANN is not in a position to commit to the dispensation of any potential remaining funds from the New gTLD Program applications fees.

Thank you for your thoughtful proposal and for your understanding.

Sincerely,

Akram Atallah

Akram Atallah
President, Global Domains Division

[3] See https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy18-24jun17-en.pdf