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Affiliation: German Hotel Association (IHA)
Applicant: Booking.com B.V.
String: HOTELS
Application-ID: 1-1016-75482
Comment-IDs: 21khshpt and 6qmu58e4

Despite the filing of a change request by the Applicant to attempt to conform to Category 2 Safeguard Advice, the TLD .HOTELS remains an exclusive registry and thus fails to alleviate the public policy concerns raised by the GAC. The change request should thus be denied.

To whom it may concern,

The ICANN Board Resolution (2015.06.21.NG02), following GAC advice, prohibited closed generics in this current round of TLD applications and advised applicants such as Booking.com “to submit a change request to no longer be an exclusive generic TLD or to withdraw their application; otherwise the application will be deferred to the next round”.

Against that background Booking.com filed a change request on 12th January 2016, with only very minimal amendments. As illustrated below in a non-exhaustive manner, the amended version of the application is clearly confirming that Booking.com will fully control and restrict at its sole discretion, registration and use of domain names under .HOTELS.

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The application for .HOTELS was drafted as an exclusive access TLD, also known as closed TLD, namely a TLD within which the registration and use of domain names are not opened to third parties and controlled by the Registry Operator at its discretion.

An opening of the TLD .HOTELS would have necessitated important changes to the application to demonstrate that .HOTELS would not be operated in an exclusive fashion which is not the case here.

Instead of this the Applicant has merely introduced a reference to a concept named "Eligible Trusted Third Parties". However the Applicant has not provided any information on how these "Eligible Trusted Third Parties" will be identified or how they will become eligible, there is no definition whatsoever. The substance of the application has not changed, because otherwise necessitated important changes would have been introduced. Furthermore, the application is now more restrictive rather than less restrictive, as in some instances, vague statements referring to third parties have been replaced with the concept of Eligible Trusted Third Parties.

The fact that the application still describes an exclusive operating model can also be seen in many parts of the amended application and includes, but is not limited to, the following:

Section 18. B. I, extract: "the .hotels top-level domain is currently intended to be unambiguous as regards: (...) the affiliation between the Registry Operator and the .hotels gTLD, as well as the domain names registered in such gTLD"

Comment:

If all domain names registered under .HOTELS are affiliated to Booking.com then that seems to suggest that the TLD will not truly operate on a non-exclusive basis.

Section 18. B. ii., extract: "1. Operate the highly recognizable .hotels gTLD at the top-level of the DNS' hierarchy, for the benefit of the Applicant and the various stakeholders supported by the Applicant in its current day-to-day activities."

Comment:

This is an illustration of the fact that the TLD is still exclusive.

Section 18. B. iii. (ii), extract: "selected third parties that meet certain criteria, which Booking.com will be entitled to set at its own discretion, may register domain names in the .hotels gTLD"

Comment:

The application did already refer to third parties who might be eligible to register domain names under .HOTELS so this has not changed with the introduction of so-called "Eligible Trusted Third Parties" without any definition and thus limits the status quo definition even further.

Section 18. C., extract: "At least during the initial months or even years following the delegation of the .hotels gTLD to Booking.com , this extension is likely going to be reserved to Booking.com and Eligible Trusted Third Parties."

Comment:

"Initial months or even years", which in essence means for any period of time Booking.com sees fit. Given that Eligible Trusted Third Parties are not defined anywhere, this cannot be considered a genuine commitment to operate .HOTELS on a non-exclusive basis.

Section 18. C., extract: "Protecting and safeguarding the .hotels gTLD, by keeping control over the entire operation of the .hotels registry"

Comment:

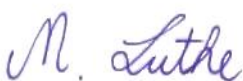
This is an illustration of the fact that the TLD is still exclusive.

Section 18. C., extract: "Consequently, there will be no (social) costs for non-eligible (third) parties, given the fact that they will be unable to register domain names in the .hotels gTLD in the first place."

Comment:

This is unequivocally confirming that the TLD .HOTELS will not be opened to third parties but operated restrictively in the sole interests of the Applicant.

Best regards,



Markus Luthe
Chief Executive Officer
German Hotel Association (IHA)