

Reconsideration Request Form

1. Requester Information

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2. Request for Reconsideration of (check one only):

Board action/inaction

Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

According to a March 11, 2013 letter (attached) from Christine Willett, Vice President, gTLD Operations, ICANN, the Support Applicant Review Panel (SARP) determined that our application for financial assistance from ICANN to support our UMMAH gTLD application¹ did not meet the minimum requirements for Criteria 1 (Public Interest Benefit) for qualification for financial assistance. The letter concluded that because of this determination, our application “is ineligible for further review under the New gTLD Program and the evaluation fee amount of USD 47,000 will be refunded as stated in the Financial Assistance Handbook.”

4. Date of action/inaction:

March 11, 2013

5. On what date did you become aware of the action or that action would not be taken?

March 13, 2013

¹ <https://gtldresult.icann.org/application-result/applicationstatus/viewstatus:viewapplicationdetails/33>

6. Describe how you believe you are materially affected by the action or inaction:

The decision to remove our UMMAH gTLD from further consideration in the New gTLD Program of ICANN will, if implemented, materially harm our company Ummah Digital, Ltd. The company was incorporated in The Gambia to apply for the UMMAH gTLD which is aimed at strengthening the identity online of the global Islamic *Ummah*² or community of 1.6 billion³ people, ensuring their participation the New gTLD Program, and helping build bridges between the Islamic and non-Islamic world.

A removal of our UMMAH gTLD from further consideration in the New gTLD Program would materially affect our company in two main ways:

1. deny us, the only gTLD applicant from a least developing country (LDC⁴), the opportunity to secure the UMMAH gTLD in this round of new gTLD applications;
2. deny us, possibly forever, the opportunity to operate the UMMAH gTLD. There is nothing that would prevent applicants richer than our company from applying for the string in a future round of gTLD applications.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

Removing our UMMAH gTLD from further consideration in the New gTLD Program of ICANN would adversely affect the 1.6 billion Muslims, potential new gTLD applicants from developing countries, ICANN itself, and the global Internet community at large. In the first place, removing the UMMAH gTLD from New gTLD Program will reduce competition and consumer choice for Muslims, Islamic organizations, and domain name buyers (e.g. governments and companies) interested in reaching Muslims on the Internet the world.

Secondly, removing the UMMAH gTLD application from the New gTLD Program would eliminate Ummah Digital, Ltd., the only applicant from the 49 LDCs from the Program. ICANN itself would be adversely affected by the removal of the UMMAH gTLD application from the New gTLD Program because it would be hard put to convince people from developing countries that it is serious about having an inclusive New gTLD Program and a Multi-Stakeholder Internet.

A removal of the UMMAH gTLD application from further consideration would also contravene ICANN board resolutions calling for an inclusive New gTLD Program, and ignore the concerns of the GAC and other constituencies in the ICANN community about the low participation of developing countries in the program. ICANN would also be adversely affected if it implements Applicant Support rules that defeat the work of the JAS Working Group, and the very purpose

² <http://en.wikipedia.org/wiki/Ummah>

³ <http://www.pewforum.org/the-future-of-the-global-muslim-population.aspx>

⁴ <http://www.unohrlls.org/en/ldc/25/>

of the applicant support program, namely, the participation of needy applicants, especially those from developing countries, in the New gTLD Program.

Finally, the global Internet community would be adversely affected by removing UMMAH gTLD application from the New gTLD Program because there will be less choice and competition, and the ICANN community would be more divided between the haves and have-nots.

8. If you are complaining of an action, are you seeking a temporary stay of the action? (Check one)

Yes; we are actually seeking a **permanent** stay of the action.

No

8a. If Yes, you are seeking a temporary stay, do you believe any harm(s) will occur if the action is not stayed? (Check one)

Yes

No

8b. If you answered Yes to 8.a., please describe the harm(s) that you believe will occur if the action is not stayed:

A failure to set aside the decision to exclude our UMMAH gTLD application from further consideration in the New gTLD Program would harm both our company, Ummah Digital, Ltd., the effective participation of Africa and least developing countries in the New gTLD Program, and the interests of ICANN in Africa and developing countries.

A failure to set aside the decision to exclude our UMMAH gTLD application from further consideration in the New gTLD Program would deny us the opportunity to apply for, and operate the UMMAH gTLD in the interest of the estimated 1.6 billion Muslims around the world, and the global Internet community.

Africa has the least number of new gTLD applications of all the regions in the world, with only 0.9 percent of the 1,930 applications received. Of the 17 gTLD applications from Africa, 2 are for Arab states, 2 are contentions for the same geographic string, 3 are for cities, and 9 are applications for brand TLDs. Our UMMAH gTLD application is the only African for-profit gTLD application, and the only truly generic, globally-oriented TLD application from Africa.

Furthermore, of the 1,154 applicants from 60 countries in the New gTLD Program, we are the only applicant from the 49 LDCs (34 of them in Africa) which ICANN targets for special attention (e.g. in its Fellowship Program). For this reason, excluding our application from the

New gTLD Program would deny the LDCs, and the African private, for-profit sector from participation in the New gTLD Program.

Excluding our application from the New gTLD Program would also send the wrong signals about ICANN's determination, expressed in a recent meeting in Addis Ababa, Ethiopia, to help build a vibrant DNS industry in Africa.⁵ It is worth mentioning here that Africa can hardly be expected to build a vibrant DNS industry if all its initiatives have to be not-for-profit to be eligible for support, or to participate in the New gTLD Program. Besides, it is these private sector initiatives that hold the key to weaning LDCs and Africa from dependence on support from ICANN.

9. Detail of Board or Staff Action – Required Information

Our request is in regards a staff action.

According to a March 11, 2013 letter (attached) from Christine Willett, Vice President, gTLD Operations, ICANN, the Support Applicant Review Panel (SARP) determined that our application for financial assistance from ICANN to support our UMMAH gTLD application did not meet the minimum requirements for Criteria 1 (Public Interest Benefit) for qualification for financial assistance. The letter concluded that because of this determination, our application "is ineligible for further review under the New gTLD Program and the evaluation fee amount of USD 47,000 will be refunded as stated in the Financial Assistance Handbook."

Although the ICANN staff determination that our application ineligible for further consideration in the New gTLD Program is consistent with the Financial Assistance Handbook⁶, implementing such a decision would breach the intent of ICANN board resolutions, as well as GAC advice, and recommendations from various ICANN stakeholders which call for a New gTLD Program that is inclusive of participants from developing countries. Examples of such ICANN board resolutions and stakeholder declarations include:

- 1. March 12, 2010:** Board resolution recognizing concerns about the New gTLD Program and developing countries, and requesting the formation of the JAS Working Group to develop an approach to support needy applicants - <http://www.icann.org/en/groups/board/documents/resolutions-12mar10-en.htm#20>
- 2. October 28, 2010:** reaffirmation of the Board's commitment to an inclusive New gTLD Program, and resolution encouraging the community to continue work on developing criteria for applicant support - <http://www.icann.org/en/groups/board/documents/resolutions-28oct10-en.htm>
- 3. December 10, 2010:** Board resolution acknowledging the work of the JAS Working Group, and encouraging them to continue it - <http://www.icann.org/en/groups/board/documents/resolutions-10dec10-en.htm>

⁵ <http://www.icann.org/en/news/press/releases/release-11mar13-en>

⁶ <http://newgtlds.icann.org/en/applicants/candidate-support/financial-assistance-handbook-11jan12-en.pdf>

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4. **August 4, 2011:** GAC-ALAC joint statement that the “Board must take all necessary steps to ensure that there are no barriers that would prevent the new gTLD round in 2012 from being fully inclusive to stakeholders and communities in all countries so that this is a truly global opportunity to contribute to the evolution of the domain name system.” <https://gacweb.icann.org/download/attachments/28278837/GAC%20letter%20GAC-ALAC%20Joint%20Statement.pdf?version=1&modificationDate=1312554241000&api=v2>
 5. **December, 2010:** Statement by the African ICANN that “assistance should be provided to the needy applicants [in the] first round of application, and not at some possible future round ...” <http://www.atlarge.icann.org/correspondence/africann-statement-new-gtld-applicants-07dec10-en.pdf>
 6. **June 20, 2011:** Board resolution authorizing the implementation of the New gTLD Program, including “a program to ensure support for applicants from developing countries ...” <http://www.icann.org/en/groups/board/documents/resolutions-20jun11-en.htm>
 7. **December 8, 2011:** Board resolution approving the fee reduction to \$47,000 for qualified applicants for support - <http://www.icann.org/en/groups/board/documents/resolutions-08dec11-en.htm#1.1>

10. What are you asking ICANN to do now?

We are requesting ICANN to take the following actions:

1. Reinstate our UMMAH gTLD application for consideration in the New gTLD Program;
2. Allow us to raise additional funds to pay the remaining \$138,000 (one hundred and thirty eight thousand dollars, US) of the new gTLD application fee.

11. What grounds or justification support your request?

The reasons for our request to re-instate our UMMAH gTLD application in the New gTLD Program, and allow us to raise additional funding to pay the full application fee are as follows:

1. Aligning Decisions to ICANN Policies

As pointed out earlier in our response to Question 9 above, implementing the decision to remove our application ineligible from further consideration in the New gTLD Program would breach the intent of ICANN board resolutions, as well as GAC advice, and recommendations from various ICANN stakeholders. On the other hand, reinstating our application would help ensure that the New gTLD program is inclusive of applicants from Africa and the developing countries, as intended and declared by the ICANN board and community at large. This is especially so in view of the fact that much of the thinking that went into the development of the applicant support rules did not foresee the dismally low number of applications for support.

2. Strengthen the participation of developing countries in the New gTLD Program

Africa has the least number of new gTLD applications of all the regions in the world. Of the 17 gTLD applications from Africa, 2 are for Arab states, 2 are contentions for the same geographic string, 3 are for cities, and 9 are applications for brand TLDs. Our

UMMAH gTLD application is the only African for-profit gTLD application, and the only truly generic, globally-oriented TLD application from Africa. Furthermore, of the 1,154 applicants from 60 countries in the New gTLD Program, we are the only applicant from the 49 least developed countries (LDCs)⁷ which ICANN targets for special attention.

Excluding our application from the New gTLD Program would deny the LDCs, and the African private, for-profit sector from participation in the New gTLD Program. Of the 9 applicants from 54 countries in Africa, we are one of the only two applicants from 52 countries in Africa⁸, apart from the 6 applicants from South Africa, and one applicant from Egypt. Excluding us from the New gTLD Program would thus send the wrong signals about ICANN's determination, expressed in a recent meeting in Addis Ababa, Ethiopia, to help build a vibrant DNS industry in Africa.⁹ It is also worth mentioning that Africa can hardly be expected to build a vibrant DNS industry if all its initiatives are going to be not-for-profit. Besides, it is these private sector initiatives that hold the key to weaning LDCs and Africa from dependence on support from ICANN.

While we salute the work done by the entire ICANN community in developing the applicant support implementation plan, it is our opinion that its implementation has some serious drawbacks, such as very low number of applications for support, the overly restrictive definition of "public interest," and the disproportionate penalties for failing to qualify for funding. For this reason, our application to provide the 1.6 billion-strong Muslim *Ummah* with a gTLD, has been defined by ICANN's process as not serving the "public interest," and now faces being excluded from the New gTLD Program. Implementing such a decision is going to nullify the participation of developing countries in the New gTLD Program, and will not be in ICANN's interest.

3. The New gTLD Program implementation has been flexible

Although ICANN and its community expended a lot of time, resources, and effort developing a Guidebook for the implementation of the New gTLD Program, reality has often deviated from the stipulations of the Guidebook. Examples of adjustments in the implementation of the New gTLD Program include the termination of the digital archery system in June, 2012¹⁰ after it was introduced in March, 2012¹¹; the introduction of the requirement for Public Interest Commitments (PICs) in February, 2013¹², and the shifting of target dates for various milestones, including the closure of the TAS and the application window. ICANN has also approved 599 of 636 application change requests received so far.¹³

⁷ <http://www.unohrlls.org/en/ldc/25/>

⁸ http://en.wikipedia.org/wiki/Sub-Saharan_Africa

⁹ <http://www.icann.org/en/news/press/releases/release-11mar13-en>

¹⁰ <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-2-27jun12-en.htm>

¹¹ <http://www.icann.org/en/groups/board/documents/resolutions-28mar12-en.htm>

¹² <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-01feb13-en.htm>

¹³ <http://newgtlds.icann.org/en/program-status/statistics>

These changes were made in the best interest of the ICANN community and the effective implementation of the New gTLD Program. It is in this spirit that we request a reconsideration of the decision to exclude our application from the New gTLD Program, because we believe reinstating it would not be prejudicial to the stellar work done to prepare the New gTLD Program Financial Assistance Handbook. On the contrary, reinstating our application would help achieve key objectives of the Applicant Support program, including ensuring the inclusion of LDCs in the New gTLD Program. Reinstating our application would also be consistent with the flexibility ICANN has shown so far in implementing the New gTLD Program.

4. Preventing capture of the UMMAH TLD by richer applicants

In view of the fact that we are a small startup company from a developing country, it will be very easy for other companies to outspend us in applying for the UMMAH TLD in a future application round. Much of the case for an UMMAH TLD has been made in the public part of our application, and nothing can stop another company from adapting our application to serve their own needs in the future. For this reason, excluding our application from the current New gTLD Program could in effect deny us the string because we simply would not get the resources to compete against richer companies interested in securing the string in a future gTLD application round.

5. No cost to ICANN

Reinstating our UMMAH TLD application in the New gTLD Program would be at no cost to ICANN. If anything, it would provide ICANN an additional \$138,000 in revenue if we raise additional funds to pay the full application fee. Indeed, since the publication of the SARP decision, some investors have expressed interest in funding us to pay the full ICANN application fee, if we are allowed to do so. Furthermore, our UMMAH TLD would not negatively impact the systemic security, stability and resiliency of the domain name system.

12. Do you have any documents you want to provide to ICANN?

The following documents are attached to this request:

1. Letter from Christine Willett, VP gTLD Operations, ICANN, conveying the SARP decision on our application for support;
2. Letter to Dr. Bruce Tonkin, Chair, ICANN Board Governance Committee, requesting a reinstatement of our UMMAH TLD application in the New gTLD Program