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ARIF HYDER ALI



12 March 2017

**VIA E-MAIL**

Mr. Göran Marby President and Chief Executive Officer ICANN 12025 Waterfront Drive, Suite 300 Los Angeles, CA 90094	ICANN Board of Directors c/o Steve Crocker, Chair 12025 Waterfront Drive, Suite 300 Los Angeles, CA 90094
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Dear President Marby and Members of the Board:

We write on behalf of our client, dotgay LLC (“dotgay”), to inquire when the ICANN Board (the “Board”) will issue its final decision on the 26 June 2016 Recommendation of the Board Governance Committee (“BGC”) on dotgay’s Reconsideration Request 16-3 regarding the .GAY top-level domain (the “Reconsideration Request”).<sup>1</sup> We further write to protest ICANN’s lack of transparency in its treatment of dotgay’s application and ICANN’s failure to provide any sort of response to dotgay’s various inquiries about that status of its application. ICANN’s actions and inaction continues to cause harm to the gay community, which today more than ever is need of a safe space on the Internet to protect and promote the ideals, principles and interests of the community.

Dotgay submitted its Reconsideration Request *more than one year ago* and *nearly nine months* have passed since the BGC issued its Recommendation. As we noted in our most recent correspondence of 30 January 2017, we find ICANN’s protracted delays in reaching a decision on dotgay’s Reconsideration Request and ICANN’s continued lack of

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<sup>1</sup> Reconsideration Request 16-3 (17 February 2016), <https://www.icann.org/en/system/files/files/reconsideration-16-3-dotgay-request-17feb16-en.pdf>.

responsiveness to dotgay's inquiries about the status of its request troubling, particularly in light of ICANN's commitments to transparency enshrined in its governing documents.<sup>2</sup>

Although we understand that ICANN is conducting "an independent review of the process by which ICANN staff interacted with the community priority evaluation provider, both generally and specifically with respect to the CPE reports issued by the CPE provider"<sup>3</sup> and that the BGC may have requested from the CPE provider "the materials and research relied upon by the CPE panels in making their determinations with respect to the pending CPE reports,"<sup>4</sup> ICANN cannot indefinitely delay resolving dotgay's Reconsideration Request. ICANN owes affected parties, like dotgay, a response to their inquiries regarding the nature and status of the independent review and information request. Again, we find ICANN's lack of communication disappointing and inconsistent with its duties of transparency.

With this letter, we renew our request that ICANN extend dotgay, and the global community that dotgay represents through its application, the common courtesy of a response to its inquiries regarding the anticipated resolution of dotgay's Reconsideration Request and disclosure of information about the nature of the independent review ICANN apparently has commissioned regarding the Economist Intelligence Unit's handling of community priority evaluations. We are unaware of any rule of law, administrative procedure or corporate governance that would justify ICANN's silence and delays.

We look forward to your prompt response.

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<sup>2</sup> See letter from Arif H. Ali, to Göran Marby, ICANN President and CEO, and the ICANN Board of Directors (30 January 2017).

<sup>3</sup> Resolution of the ICANN Board 2016.09.17.01, President and CEO Review of New gTLD Community Priority Evaluation Report Procedures (17 September 2016), <https://www.icann.org/resources/board-material/resolutions-2016-09-17-en#1.a>.

<sup>4</sup> Minutes of the Board Governance Committee (18 October 2016), <https://www.icann.org/resources/board-material/minutes-bgc-2016-10-18-en>.

Dotgay reserves all of its rights at law or in equity before any court, tribunal, or forum of competent jurisdiction.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arif Hyder Ali', with a long horizontal stroke extending to the right.

Arif Hyder Ali

cc: Krista Papac, ICANN Complaints Officer ([krista.papac@icann.org](mailto:krista.papac@icann.org))