

Orthodox Union



UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA ♦ איחוד קהילות האורתודוקסים באמריקה

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June 27, 2013

VIA EMAIL (ppritzker@doc.gov)
AND FEDERAL EXPRESS

The Honorable Penny Pritzker
Secretary
United States Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Re: Equal treatment of applications for .halal and .kosher new top level domains

Dear Madam Secretary:

Congratulations on your recent appointment. We recognize that you will have many important issues to address in your new position. Today, we would like to make you aware of a pressing, time-sensitive issue for your immediate attention.

As you may be aware, the Internet Corporation for Assigned Names and Numbers (ICANN) is in the process of evaluating applications for new generic top level domains (gTLDs). Among the over 1,900 applications that ICANN received for these new gTLDs were applications for the domains .halal and .kosher. Both of these applications raise sensitive religious and potential consumer confusion issues. Unfortunately, ICANN appears to be on a course to provide different treatment to these similarly situated applications, recognizing these sensitivities for .halal but not for .kosher. On behalf of leading kosher certification organizations The Union of Orthodox Jewish Congregations of America (OU Kosher), STAR-K Kosher Certification, Inc. (STAR-K), Chicago Rabbinical Council, Inc. (cRc), and Kosher Supervision Service, Inc. (Kof-K), I am writing to urge the United States Department of Commerce to take specific action, through the National Telecommunications & Information Administration (NTIA), to ensure that ICANN provides equal treatment of the .halal and .kosher gTLD applications.

ICANN receives input from national governments through the Governmental Advisory Committee (GAC), for which NTIA serves as the representative of the

U.S. government. On April 11, 2013, the GAC issues its Beijing Communique, which, in relevant part, provided the following advice to the ICANN Board:

The GAC recognizes that Religious terms are sensitive issues. Some GAC members have raised sensitivities on the applications that relate to Islamic terms, specifically .islam and .halal. The GAC members concerned have noted that the applications for .islam and .halal lack community involvement and support. It is the view of these GAC members that these applications should not proceed.

The Communications and Information Technology Commission of the Kingdom of Saudi Arabia has urged ICANN to deny the .halal gTLD application and provided public comments to ICANN indicating the following: “Halal... is a term designating any object or an action which is permissible to use or engage in, according to Islamic law. The term is used to designate food or actions deemed permissible according to Islamic law.”¹

The .kosher gTLD application raises the same religious sensitivities referenced in the GAC Beijing Communique related to the .halal application. The word “kosher” is an adaptation of the Hebrew word meaning “fit” or “proper.” It refers to foodstuffs that meet the dietary requirements of Jewish Law. These dietary laws originate in the Bible and have been observed by Jews for more than 3,000 years. In contrast to the longstanding use of the word kosher by kosher certification organizations, and the understanding of such usage by Jews from around the world, the .kosher gTLD application specifically states that the applicant intends to limit the registration and use of second-level .kosher domain names to use by only the applicant or those persons or entities that are affiliated with the applicant.² For these reasons, it is appropriate for ICANN to provide equal treatment of the .halal and .kosher gTLD applications by denying both applications.

¹ Comment of Abjulumjid, Communication and Information Technology Commission, Kingdom of Saudi Arabia, <https://gtldcomment.icann.org/applicationcomment/commentdetails/5923> (last visited May 15, 2013).

² Application 1-1013-67544 18(b) (“Kosher Marketing Assets intends to limit registration of domains either for its exclusive use or for use by closely affiliated organizations in a manner that contributes to the purpose of this TLD.”)

The proposed operation of .kosher also violates the GACs Advice to the ICANN Board pertaining to both Restricted Access and Exclusive Access gTLDs.³ The .kosher applicant has reserved the option of operating, without transparency and non-discriminatory registration policies, as a closed or highly restricted registry.⁴ The application even brazenly describes in part the mission of the .kosher gTLD as promoting the applicant and its clients. As with the .halal gTLD application identified in the GAC Communique, the .kosher gTLD application is comprised of a religious term and the application lacks legitimate community involvement and support.

In relation to the .halal gTLD application, the New gTLD Program Committee (NGPC) of the ICANN Board has advised the GAC that "NGPC" stands ready to enter into a dialogue with the GAC on this matter."⁵ During the forthcoming dialogue between the GAC and the NGPC (presumably at the ICANN meeting in Durban, South Africa beginning July 14, 2013), the .kosher gTLD application should also be considered, and the GAC and the NGPC should take steps to ensure that the applications and the religious communities affected by the applications are provided equal treatment.

We urge the Department of Commerce, through NTIA's participation at the GAC's Durban meeting, to raise these serious concerns about the .kosher gTLD application, including the potential inconsistent treatment of the .halal and .kosher gTLD applications, and urge ICANN to deny both applications.

Thank you for your time in reviewing this matter. Please do not hesitate to contact me if you would like additional information.

³ Similar to the .halal application, representatives of the kosher certification community were forced to pursue a community objection to the .kosher application. ICC Case No. EXP/424/ICANN/41.

⁴ The .kosher applicant did not file a response to the GAC Advice. *See* <http://newgtlds.icann.org/en/applicants/gac-advice-responses>.

⁵ <http://www.icann.org/en/groups/board/documents/new-gtld-resolution-annex-1-04jun13-en.pdf>

Sincerely,



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cc: Cameron F. Kerry, General Counsel, Dept. of Commerce (ckerry@doc.gov)
Hon. Lawrence E. Strickling, Administrator, NTIA (lstrickling@ntia.doc.gov)
Fiona Alexander, Associate Administrator, NTIA (faalexander@ntia.doc.gov)