

GAC Early Warning – Submittal Data-AU-38008

Application ID:	1-2009-38008
Entity/Applicant Name:	Dish DBS Corporation
String:	.data
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:

Competition: Dish DBS Corporation is seeking exclusive access to a common generic string (.data) that relates to a broad market sector.

Reason/Rationale for the Warning – This will be posted publicly:

The proposed string, .data, is a common generic term relating to a market sector.

Dish DBS Corporation is proposing to exclude any other entities, including potential competitors, from using the TLD.

Restricting common generic strings for the exclusive use of a single entity could have unintended consequences, including a negative impact on competition.

Early warnings provide a mechanism to initiate a discussion between a government and an applicant on particular issues or questions. It is intended that a constructive dialogue through this process will assist applicants to better understand the concerns of governments, and help governments to better understand the planned operation of proposed gTLDs.

Possible Remediation steps for Applicant – This will be posted publicly:

Dish DBS Corporation should specify transparent criteria for third party access to the TLD. These criteria should be appropriate for the types of risk associated with the TLD, and should not set anti-competitive or discriminatory conditions relating to access by third parties.

These criteria should form part of any binding contract with ICANN, and be subject to clear compliance oversight by ICANN.

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Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

This Early Warning is from the Department of Broadband, Communications and the Digital Economy (DBCDE), on behalf of the Australian Government. In the first instance, communications and responses to this early warning should be emailed to gacearlywarning@gac.icann.org, with the text “Australian EW” and the application ID in the subject field.

INFORMATION FOR APPLICANTS

About GAC Early Warning

The GAC Early Warning is a notice only. It is not a formal objection, nor does it directly lead to a process that can result in rejection of the application. However, a GAC Early Warning should be taken seriously as it raises the likelihood that the application could be the subject of GAC Advice on New gTLDs or of a formal objection at a later stage in the process. Refer to section 1.1.2.4 of the Applicant Guidebook (<http://newgtlds.icann.org/en/applicants/agb>) for more information on GAC Early Warning.

Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

If you have questions or need clarification about your GAC Early Warning, please contact gacearlywarning@gac.icann.org. As highlighted above, ICANN strongly encourages you to contact gacearlywarning@gac.icann.org as soon as practicable regarding the issues identified in the Early Warning.

Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

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If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

Applicant Response:

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