

## GAC Early Warning – Submittal\_ GMBH-DE-16785

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<b>Application ID:</b>	1-1952-21459; 1-1693-16758; 1-1682-34664; 1-1477-91047; 1-1296-52581; 1-1273-63351
<b>Entity/Applicant Name:</b>	InterNetWire Web-Development GmbH; GMBH Registry, LLC; Charleston Road Registry Inc.; Extra Dynamite, LLC; NU DOT CO LLC; TLDDOT GmbH
<b>String:</b>	<b>“.gmbh”</b>
<b>Early Warning Issue Date:</b>	<b>20 November 2012</b>

### **Early Warning Description – This will be posted publicly:**

The Government of Germany wishes to observe that the term “gmbh” as an abbreviation is linked to a specific corporate form for companies (“Gesellschaft mit beschränkter Haftung”, which corresponds to a Limited Liability Company or LLC in the English-speaking countries).

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

The introduction of new generic top-level domains (gTLDs) by ICANN creates new possibilities for various sectors to present themselves on the internet and is therefore basically welcome in terms of a future orientated, globally networked economic policy. In Germany and other German speaking countries, the gTLD “.gmbh” offers many chances for enterprises, which are established in the corporate form of a “Gesellschaft mit beschränkter Haftung” (GmbH) to optimize their presentation in the internet. Therefore, the government of Germany welcomes the efforts of private-sector companies to establish “.gmbh” as a self-explanatory TLD.

In most cases, the average internet user in a German speaking country will expect a SLD like “(name of a company).gmbh” to be used by a company registered as a “Gesellschaft mit beschränkter Haftung”. In Germany, only companies registered as a “Gesellschaft mit beschränkter Haftung” have the right to use the respective abbreviation “GmbH” accordingly. Therefore, there is a legal aspect to be considered in allowing the use of the term “Gmbh” as part of a Second-Level domain. It might be added that companies in the corporate form of a GmbH enjoy special trust amongst customers on the German market.

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

#### **GAC Member(s) to identify possible remediation steps to be taken by the applicant**

To enhance the protection against any misuse or misinterpretation of “.gmbh” as part of a domain, Germany suggests an implementation of the following terms as a safeguard:

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- Applicants for SLDs under “.gmbh” have to be companies which are already organized as “Gesellschaften mit beschränkter Haftung” according to the regulations valid in Germany, Austria, Switzerland or Liechtenstein, or they should be able to prove that such a registration is pending in at least one of these countries. The compliance of these requirements has to be regularly reviewed.
- Applicants for SLDs have to prove that they are subject to liability as a GmbH by forwarding a full set of valid documents from their respective place of jurisdiction.

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

**The government of Switzerland supports this EW (see also the attached e-mail correspondence).**

## **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](mailto:gacearlywarning@gac.icann.org). As highlighted above, ICANN strongly encourages you to contact [gacearlywarning@gac.icann.org](mailto: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

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completion date. This completed form should then be sent to [gacearlywarning@gac.icann.org](mailto: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**

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](mailto:gacearlywarning@gac.icann.org)**

### **Applicant Response:**