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Federal Department of the Environment,  
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**Federal Office of Communications OFCOM**  
Director General

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Mr Fadi Chehadé  
CEO and President of ICANN  
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**Biel/Bienne, 23 September 2014**

### **Applications for the top-level domain “.gmbh”**

Dear Mr Chehadé, *dear Fadi,*

I am writing to you today with regard to a matter that was repeatedly highlighted by the German, Swiss and Austrian governments since our early warnings released in November 2012 and also supported by consensus GAC advice.

These early warnings have made clear that the operator of a future registry will have to ensure that anyone wishing to register for the top-level domain “.gmbh” fulfils a number of requirements:

- Applicants for SLDs under “.gmbh” have to be companies which are already organized as “Gesellschaft 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. Compliance with 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.

As a logical consequence, the GAC's Beijing Advice categorises “.gmbh” as a “sensitive string”. As with other strings that represent corporate identifiers, ICANN's New gTLD Programm Committee (NGPC) has adopted this requirement and has assigned the string “.gmbh” to the category of highly-regulated sectors.

As was discussed at the last ICANN meeting in London in the joint session of the GAC and the ICANN Board, as well as is reflected in the GAC Communiqué, a number of GAC members are still unclear as to in what form and how registrants are to provide the credentials and certificates as stipulated in the GAC Advice. This uncertainty particularly relates to applications for the string “.gmbh”.

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It is true that top-level domains are, in general, open to registrants from around the world. However, given that the legal form GmbH is limited to German-speaking countries, it would therefore seem logical and justified that the future registry be based in either Germany, Austria or Switzerland and be subject to the law of one of these countries.

I would therefore like to point out once again that unless it can be ensured that the criteria set out by the governments of German-speaking countries will be complied with in the most rigorous manner, we do see a genuine risk that there be a large number of court cases which will result in a lack of legal certainty for all parties involved. In the interest of all of us – including ICANN – we think that this should be avoided. Almost one million companies registered as GmbHs will be affected by the issuing of the new LTD “.gmbh”. Any decision to approve applications that do not meet the requirements imposed by applicable law will lead to a loss in confidence in the legal form “GmbH” and thus to an erosion of confidence in the ICANN model.

We do sincerely hope that this matter can be resolved in the best interest of all of us.

Yours faithfully

Federal Office of Communications OFCOM



Philipp Metzger  
Director General