



October 25, 2010

From: Employ Media LLC (Via e-mail)  
To: ICANN Board Governance Committee  
Re: Reconsideration Request 10-2 submitted by the .JOBS Charter Compliance Coalition

### **Introduction**

Below, Employ Media responds to the questions posed by the Board Governance Committee (“BGC”) as part of its reconsideration of the Board’s 5 August 2010 approval of amendments to the .JOBS sTLD Registry Agreement.

The .JOBS Charter Compliance Coalition’s (the “Coalition”) request for reconsideration is based upon allegations that the amendments approved by the Board will in fact result in Employ Media operating the .JOBS registry in violation of the Charter specified in the Registry Agreement. Employ Media categorically rejects such allegations as unfounded speculation, and made solely to delay the launch of the .JOBS Phased Allocation Program. The Coalition further alleged that the Board did not consider material information on this issue. As discussed below, Employ Media confirms that all information required by ICANN’s RSEP and requested by ICANN staff was made available to the Board when it approved the amendments to the .JOBS Registry Agreement on 5 August 2010.

### **Questions**

1. Do you confirm that the amendments approved by the ICANN Board on 5 August 2010 do not change the Charter of the .JOBS sTLD? If not, please explain how you believe the .JOBS Charter was changed.

**Answer:** Employ Media confirms that the amendments approved by the ICANN Board on 5 August 2010 do not change the Charter of the .JOBS sTLD.

2. At the time of the 5 August 2010 Board meeting, did Employ Media intend to allow registrations in the .JOBS sTLD from persons or entities not meeting the .JOBS Charter registration requirements? If so, please explain your reasoning for this intent and state whether an expression of this intent was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

**Answer:** At the time of the 5 August 2010 Board meeting, Employ Media did NOT intend to allow registrations in the .JOBS sTLD from persons or entities not meeting the .JOBS Charter registration requirements. Further, Employ Media has NO intention to allow registrations in the .JOBS sTLD from persons or entities not meeting the .JOBS Charter registration requirements.



3. Prior to the Board's 5 August 2010 action, did Employ Media make any representations to the public regarding availability of registrations in the .JOBS sTLD? If so, what was the substance of these representations, and please state whether these representations were available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: Specifically with respect to the availability of registrations in the .JOBS sTLD, Employ Media has made various representations to the public at various times. After all, it is our responsibility as registry operator to market and allocate domains. However, all such representations have always been consistent, to the best of our knowledge, with the terms of Employ Media's registry agreement with ICANN, as well as the statements contained in Employ Media's RSEP.

4. Do you confirm that Employ Media will only allow persons or entities identified in the Charter to register names in the .JOBS sTLD? If not, please explain your reasoning for allowing such persons or entities to register names in the .JOBS sTLD, and state whether an expression of this reasoning was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: The .JOBS Charter states that "[t]he following persons may request registration of a second-level domain within the .JOBS TLD: members of SHRM; or persons engaged in human resource management practices that meet any of the following criteria: (i) possess salaried-level human resource management experience; (ii) are certified by the Human Resource Certification Institute; (iii) are supportive of the SHRM Code of Ethical and Professional Standards in Human Resource Management...".

Employ Media confirms that we will only allow persons identified in the Charter to request registration of names in the .JOBS sTLD.

5. In Employ Media's Registry Request, it stated: "Independent job site operators in other TLD's may be affected by the introduction. Some have indicated a positive interest to submit an RFP if such were made available. Others have indicated that the proposed registry service could enable an expansion of their product and service offerings in new/innovative ways." Please identify all "independent job site operators" that are referred to in this statement, and whether each is a member of the Sponsored Community sufficient to register names in the .JOBS sTLD.

Answer: Records of all independent job site operators who indicated interest, either positive or negative, were not formally maintained. Many such communications were informal in nature, and there were no commercial, legal or RSEP-related imperatives that required the allocation of



internal resources so that formal records could be maintained on a consistent basis.

6. Please identify when the White Paper available at <http://www.universe.jobs/pdfs/wp-dotjobs-tld.pdf> was produced. Did any employees or officers of Employ Media participate in the drafting of the White Paper? Please also state whether this White Paper was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: The White Paper currently available at <http://www.universe.jobs/pdfs/wp-dotjobs-tld.pdf> and dated on its face "August 2010" was not drafted by Employ Media. To Employ Media's knowledge, no employee or officer of Employ Media participated in the drafting of the White Paper. To Employ Media's knowledge, the White Paper was drafted by DirectEmployers Association. Employ Media does not know when the White Paper was produced. Employ Media has no knowledge as to whether the White Paper was available to the Board before it took its action on 5 August 2010.

However, Employ Media is aware that a document produced by DirectEmployers Association and called a "White Paper" has been publicly available at [www.universe.jobs](http://www.universe.jobs) since early 2010. This white paper (the "Earlier White Paper") was referenced by at least Monster Worldwide in Monster's 15 July 2010 correspondence posted to ICANN's public comment board. As such, there can be no doubt that the Earlier White Paper was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

While Employ Media has no direct knowledge, it is possible that the current White Paper is a later version, or revision, of the Earlier White Paper. Employ Media had the opportunity to review portions of the Earlier White Paper and comment on such, but did not participate in the drafting of same and had no control as to whether such comments were taken into account in any posted version of the Earlier White Paper.

The White Paper referenced in the above question is merely one third-party's position with regard to a proposal; it does not speak for Employ Media, or in any way bind Employ Media, or control how Employ Media will act.

7. Please state whether all material information regarding the vote of the Society for Human Resource Management ("SHRM") Policy Development Council to propose an amendment to the .JOBS Registry Agreement was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.



Answer: To Employ Media's knowledge, all material information regarding the vote of the Society for Human Resource Management ("SHRM") Policy Development Council to propose an amendment to the .JOBS Registry Agreement was available to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

8. Please identify when the Registry Services Evaluation Process proposal ("RSEP Proposal") was drafted and who took part in drafting the proposal.

Answer: The RSEP Proposal was drafted over an extended period of time prior to its submission to ICANN, and was drafted by Employ Media staff in cooperation and consultation with ICANN staff.

9. Please state whether Employ Media took any steps to prevent or interfere with any entity or person's ability to state its position, or provide information, to the Board regarding amendment of the .JOBS Registry Agreement before or during the 5 August 2010 Board meeting.

Answer: Employ Media did not take any steps to prevent or interfere with any entity or person's ability to state its position, or provide information, to the Board regarding amendment of the .JOBS Registry Agreement before or during the 5 August 2010 Board meeting.

10. Please state whether Employ Media was involved in creating or managing a coordinated response to the RSEP Proposal during the public comment period, which is available at <http://www.icann.org/en/public-comment/public-comment-201007-en.htm#jobs-phased-allocation>.

Answer: Employ Media was not involved in creating or managing a coordinated response to the RSEP Proposal during the public comment period, which is available at <http://www.icann.org/en/public-comment/public-comment-201007-en.htm#jobs-phased-allocation>. Several entities did approach Employ Media and ask what they could say in support of the RSEP Proposal, and Employ Media did suggest in the ordinary course of business language which could be used to voice their support. However, this is by no means a managed or coordinated response as exemplified by the Coalition, whose actions included drafting form letters, engaging at least one Washington, D.C. law firm intimately familiar with ICANN public comment forums, soliciting funding to pay such lawyers, and performing email blasts to spread misinformation and encourage negative posts. Employ Media took no such similar actions.

11. At the time of the 5 August 2010 Board action, did Employ Media have any intention of registering names under the Phased Allocation Plan to any entity other than Employ Media? If so, please state whether Employ Media



expressed this intent to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: At the time of the 5 August 2010 Board action, Employ Media did NOT have any intention of registering names under the Phased Allocation Plan to any entity other than Employ Media.

12. At the time of the 5 August 2010 Board action, did Employ Media have any intention to license the use of .JOBS names registered to Employ Media to persons or entities that would not qualify for registration under the .JOBS sTLD Charter? If so, please state whether Employ Media expressed this intent to the Board before it took its action on 5 August 2010 relating to amendment of the .JOBS Registry Agreement.

Answer: At the time of the 5 August 2010 Board action, Employ Media did NOT have any intention to license the use of .JOBS names registered to Employ Media to persons or entities that would not qualify for registration under the .JOBS sTLD Charter.

13. Has Employ Media solicited participation in the Phased Allocation Process from companies or entities that do not qualify for registration under the .JOBS sTLD Charter? If so, please explain Employ Media's reasoning for doing so.

Answer: Employ Media confirms that to the best of its knowledge, it has not solicited participation in the Phased Allocation Process from companies or entities that do not qualify for registration under the .JOBS sTLD Charter.