

## GAC Early Warning – Submittal Swiss-CH-36248

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Application ID:	1-1831-36248
Entity/Applicant Name:	Swiss International Air Lines Ltd.
String:	Swiss
Early Warning Issue Date:	20 November 2012

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

Swiss International Air Lines Ltd is seeking to have exclusive use of the gTLD '.swiss'. The term "Swiss" is primarily used as an adjective describing anything related to Switzerland, its people or culture, or as a noun to describe a native or inhabitant of Switzerland or a person of Swiss descent. An exclusive right of use granted to a private company would be against the public interest of the Swiss community because members of that community would be excluded from using that domain space. The exclusive right of use by Swiss International Air Lines Ltd would also be contrary to ICANN objectives to increase competition, innovation and growth in the internet addressing system.

The Government of the Swiss Confederation wishes to express its objection to the application submitted by Swiss International Air Lines Ltd for the gTLD '.swiss'. This domain should be managed by the Swiss Confederation as a community-based gTLD for the benefit of all members of the Swiss community, including private companies. This would better take into account the GAC principles regarding new gTLDs which state that new gTLDs should respect the sensitivities regarding terms with national, cultural, geographic and religious significance.

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

The relationship between the adjective/noun "Swiss" and the community that it refers to is obvious and can be demonstrated by the following.

"Swiss" is the distinctive element of the official name of the country, i.e. "Swiss Confederation" in English. It is the best known and most used word related to Switzerland, its people, institutions, culture, etc. "Swiss" is also often used, even at the national level, in the name of bodies with an official function such as e.g. "Swissmedic" (Swiss agency for therapeutic products).

In addition, the term "Swiss" is associated with many products or services created in Switzerland or by Swiss people, and with a certain level of quality attributed to them ("Swiss quality"). The label "Swiss Made" is extensively used on many high-quality products originating from Switzerland. According to Swiss trade mark protection legislation, the designation "Swiss" denotes geographical origin in relation to goods or services. In principle, any business is entitled to use the indication of origin if its goods or services actually originate from the corresponding geographical area. In commerce, there is

accordingly a strong need to be able to use "Swiss" in day-to-day commercial activities. As a public asset, its monopolisation under trade mark law in favour of a specific juristic and natural person is therefore not possible.

A reason for the importance of the adjective/noun "Swiss" is the relatively cumbersome length and spelling of the English word "Switzerland". "Swiss Made" for example is easier to understand and shorter than "Made in Switzerland". Furthermore, many non-native speakers often find it more difficult to remember "Switzerland" than "Swiss". The adjective "Swiss" is often used instead of the noun "Switzerland" either by mistake or as even a result of a new usage trend in the English language.

For these reasons, there is no doubt that the adjective/noun "Swiss" and the management of the corresponding gTLD belong to the Swiss community and should not be controlled by a single private entity.

The gTLD '.swiss' shall serve the Swiss community at large, defined as the community of individuals, legal entities, public institutions and producers of Swiss products and providers of Swiss services. The gTLD '.swiss' shall support and promote the international visibility and renown of Switzerland and the Swiss community, Swiss culture, monuments and institutions, as well as economic and social activities, in the common interest of the Swiss community. The gTLD '.swiss' shall be used as an internationally distinctive label for all renowned products, services, monuments and places of Switzerland and strengthen the value, prestige and quality of Swiss arts, culture, products and services in order to meet consumer expectations and enhance consumer confidence. In addition, the '.swiss' gTLD shall provide a platform for the development of the Swiss community at large in cyberspace and preserve the geographical, linguistic, cultural and social meaning of the word "Swiss".

The government of the Swiss Confederation acts as the central representative body for the Swiss community. It is democratically elected by universal suffrage and has the authority to make key decisions on behalf of all community stakeholders and in their interests. The federal government is responsible for the use of names such as "Switzerland" or "Swiss" in relation to the internet, among other things. The Swiss federal government, plus the regional and local authorities, collaborate with a wide range of community organizations for sustainable political, economic and social development, welfare, culture, education and leisure. This includes community organizations that specialize in the development of the digital economy, e-Government and information society. The Swiss Confederation will build upon existing relationships to set up an effective and transparent governance process for the gTLD '.swiss'.

Finally, it should be noted that the operation of the gTLD '.swiss' under the stewardship of the Swiss authorities will at no point compromise the projects of Swiss International Air Lines as the latter may benefit from the '.swiss' name space, as would any other company linked to the Swiss community.

## **GAC Early Warning – Submittal Swiss-CH-36248**

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

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

- The applicant for the string tries to address the concerns raised by the Early Warning
- The applicant should withdraw their application based on the information provided above

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

### 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 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:**

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