



Mr. Stephen Crocker
Chair of the ICANN Board of directors
and
Members of the ICANN Board of directors
(*by email*)

Dear Members of the ICANN Board of directors,

The European Commission, Portugal and EU Member States have drawn your attention on several occasions to the strong concerns that exist regarding the delegation of the new generic Top-Level Domains (gTLDs) *.wine* and *.vin*. We have highlighted how the new gTLD Programme fails to address significant EU public policy concerns, and underlined that this is not only a commercial matter but one of extreme political sensitivity.

Portugal remains deeply concerned about the potential abuse of internationally recognised geographical indications (GIs) that the proposed delegation of these two TLDs may lead to, now that it appears that the designation is going ahead without proper safeguards being put in place.

But my Government also fears that the failure of ICANN to take due account of the wider public interest will undermine confidence in your organisation and in our attempts to preserve and strengthen the current model of Internet governance. The lack of adequate redress mechanisms and, above all, the lack of accountability demonstrate the need for significant reform of ICANN even before the current debate on the global Internet governance system comes to a conclusion. And the situation is not coherent with ICANN's own commitment to strengthen your accountability towards the global community. An appropriate resolution of the problems faced by wine producers in relation to these two TLDs will go a long way to reassuring us that this ambition on the part of ICANN is on track.

European and worldwide Geographical Indications must be given the same level of protection online that they have offline. Without sufficient protection, Portugal is of the opinion that the two gTLDs, *.wine* and *.vin* should not be delegated. The fact is that the existing safeguards, adopted by the GAC in Beijing and endorsed by the ICANN Board, are not sufficient because they would still allow persons who are not legitimate rights holders to register second-level domain names under *.wine* and *.vin* and open the door for the potential violation of rights provided for under EU legislation to protect such GIs.

It is not acceptable that non authorised parties structure their supply chains around the reputation of a product that they cannot offer legitimacy, that and right holders of all sorts worldwide are forced to engage in ex post measures and/or legal action to mitigate illicit activity incurring additional costs especially burdensome for Small and Medium Enterprises that are the bulk of the wine producing sector in Portugal.



For much of 2013 and this year, representatives from the wine industry in affected regions have engaged with the applicants to find a suitable solution. We strongly believe that these negotiations could be a good example of the multi-stakeholderism that we and ICANN all seek to promote. It is important, therefore, that the interested parties should be allowed sufficient time to find the best solution for without artificial deadlines and political interference.

Portugal strongly believes that the solutions proposed to introduce a protocol and an UDRP mechanism for distinctive signs will not create any disadvantage for "good faith" registrants, provided that they can demonstrate that they hold a legitimate title or license to trade in wines protected by GIs. For this reason, there are no grounds to argue that these additional safeguards would constitute a restriction to legitimate trade.

If such a solution is not put in place for these gTLDs, then the problems will repeat themselves with other indications, and the result risks to be a widespread and damaging rejection of the current model altogether. It is your duty to avoid such a crisis: ICANN is a private, not-for-profit corporation serving the global community and, as such, you must carry out your activities in conformity with relevant principles of international law and applicable international conventions and local law.

To that effect, ICANN is not the proper venue to solve political issues that are being discussed at international intergovernmental organizations and therefore cannot decide on something that will have complex implications on international negotiations by adopting resolutions that go beyond its scope of activity that is to coordinate the DNS. This would be too reckless and there is no international law to support such activity, on the contrary. Such movements will negatively impact the organisation's legitimacy at world level.

I urge the ICANN Board to reconsider its decision and to ensure that it is being properly accountable to the global stakeholder community by putting in place sufficient safeguards, for *.wine* and *.vin* in the first instance, and for all geographical indications in similar circumstances.

I appreciate the ICANN's Board efforts to fully reconsider all the implications this issue may have and I look forward to receiving an early and positive response from the Board.

Yours sincerely,

Nuno Crato

Minister of Education and Science

C/c

Mr. Fadi Chehadé, ICANN President and CEO;

Mr. Cherine Chalaby, ICANN Chair if the New gTLD Program Committee